Friday, January 15, 2010

(Local Session)

~~Indicates Matter Stricken~~

Indicates New Matter

The Senate assembled at 11:00 A.M., the hour to which it stood adjourned, and was called to order by the ACTING PRESIDENT, Senator COURSON.

THIRD READING BILLS

The following Bills were read the third time and ordered sent to the House of Representatives:

S. 1022 -- Senators Hayes, Mulvaney and Peeler: A BILL TO AMEND ACT 959 OF 1954, AS AMENDED, RELATING TO THE CREATION OF THE YORK COUNTY NATURAL GAS AUTHORITY, SO AS TO ALLOW IT TO CONNECT TO ANY SOURCE OF NATURAL GAS AND TO INCREASE ITS POWERS TO ALLOW, AMONG OTHER THINGS, THE PURCHASE AND SALE OF THE TOWN OF BLACKSBURG’S NATURAL GAS SYSTEM.

On motion of Senator HAYES, with unanimous consent

S. 963 -- Senators Knotts, Cromer, Courson and Setzler: A BILL TO AMEND SECTION 7‑7‑380, AS AMENDED, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE DESIGNATION OF VOTING PRECINCTS IN LEXINGTON COUNTY, SO AS TO REVISE AND RENAME CERTAIN VOTING PRECINCTS OF LEXINGTON COUNTY AND REDESIGNATE A MAP NUMBER FOR THE MAP ON WHICH LINES OF THESE PRECINCTS ARE DELINEATED AND MAINTAINED BY THE OFFICE OF RESEARCH AND STATISTICS OF THE STATE BUDGET AND CONTROL BOARD.

On motion of Senator KNOTTS, with unanimous consent

REPORTS RECEIVED

# State Regulation of Public Utilities Review Committee

*Sen. Thomas C. Alexander, Chairman Nancy V. Coombs*

*Rep. Harry F. Cato, Vice Chairman Chief Counsel*

*Elizabeth H. Atwater, Esquire Andy Fiffick*

*Erik Ebersole Committee Counsel*

*Sen. C. Bradley Hutto Heather Anderson*

*Rep. Harry L. Ott, Jr. Committee Counsel*

*Sen. Luke A. Rankin, Sr. Debra D. Hammond*

*Rep. William E. Sandifer, III Committee Staff*

*John Steven Simmons, Esquire*

*Helen T. Zeigler, Esquire Post Office Box 142*

*Columbia, South Carolina 29202*

*(803) 212-6625*

**M E M O R A N D U M**

TO: Members of the General Assembly

FROM: Thomas C. Alexander

DATE: January 12, 2010

RE: Evaluations of the South Carolina Public Service Commission, Members of the South Carolina Public Service Commission, Office of Regulatory Staff, and Executive Director of the Office of Regulatory Staff

Pursuant to §58-3-530(3), (4), (6), (7), and (8), the Review Committee is required to evaluate the members of the Public Service Commission (the commission), the commission, the Executive Director of the Office of Regulatory Staff (ORS), and the ORS on an annual basis, and submit the evaluations to the General Assembly. Enclosed are the Review Committee’s evaluations. Below we discuss the Review Committee’s process for evaluating the agencies, the commissioners, and the Executive Director of ORS.

**EVALUATION OF THE PUBLIC SERVICE COMMISSION**

The Review Committee adopted goals and objectives for the commission for the review period with input from the commission. Subsequent to the review period, the commission provided to the Review Committee a written report of its activities during the review period as they relate to those goals and objectives. Utilizing that report, the commission’s Accountability Report, and information provided to the Review Committee throughout the review period, the Review Committee evaluated the actions of the commission. The Review Committee finds that the commission fulfilled all of the goals and objectives established in the evaluation document, as reflected in the Review Committee’s attached detailed evaluation of the commission.

**EVALUATION OF MEMBERS OF THE**

**PUBLIC SERVICE COMMISSION**

In order to evaluate the commissioners, the Review Committee sent a questionnaire to the commissioners requesting the following information:

* educational programs attended, sponsoring organizations, certificates or recognition received, a description of the topics, a summary of benefit to the commission, and how the program benefited the commissioner;
* professional organizations the commissioner is involved in, positions held, committees served on, descriptions of organizations’ functions. Explanation of the benefits of participation to the commission, to the commissioner, and to the State of South Carolina (e.g., government, consumers, regulated utilities);
* events attended in the commissioner’s official capacity, the sponsoring organizations, and descriptions of the activity (if speech or panel discussions, describe the topic);
* notable cases in which the commissioner took an active role, including the case name, the docket number, and a brief summary of the deliberations and decision;
* greatest accomplishments of the commission during the review period;
* the commissioner’s most significant accomplishments as a commissioner during the review period; and
* areas where there is room for improvement and an explanation as to how the commissioner will take advantage of any opportunities for improvement.

The Review Committee also sent a survey to persons appearing before the commission and to commission employees in accordance with Section 58-3-530(5). The survey solicited information to determine whether the commissioner exhibited the qualities necessary to be an effective hearing officer and decisionmaker:

* the commissioner’s understanding and communication of the goals and mission of the commission;
* the commissioner’s familiarity and knowledge of public utility law;
* the commissioner’s desire to increase his or her knowledge and skills;
* the commissioner’s treatment of persons appearing before the commissioner;
* the commissioner’s influence on employee morale and performance;
* the commissioner’s adherence to applicable ethical standards; and
* the commissioner’s assurance that hearings were conducted under dignified and orderly procedures.

Because the chairman of the commission is also the chief executive and administrative officer, the Review Committee also solicited input from persons appearing before the commission and commission employees as to the effectiveness of the chairman’s leadership and management of the commission. The Review Committee’s assessment of each commissioner’s performance during the review period is attached.

**EVALUATION OF THE OFFICE OF REGULATORY STAFF**

The Review Committee adopted goals and objectives for the ORS with input from the ORS. Subsequent to the review period, the ORS provided to the Review Committee a written report of its activities as they relate to those goals and objectives. Utilizing that report, the ORS’s Accountability Report, and information provided throughout the review period, the Review Committee evaluated the actions of the ORS. The Review Committee finds that the ORS fulfilled all of the goals and objectives established in the evaluation document, as reflected in the Review Committee’s attached detailed evaluation.

**EVALUATION OF THE EXECUTIVE DIRECTOR**

**OF THE OFFICE OF REGULATORY STAFF**

In order to fulfill its duty to evaluate the performance of the Executive Director, the Review Committee sent a questionnaire to the Executive Director requesting the following information:

* educational programs attended, sponsoring organizations, certificates or recognition received, a description of the topics, and how the program benefited the ORS;
* professional organizations the Executive Director is involved in, positions held, committees served on, and descriptions of organizations’ functions. Explanation of the benefits of participation to the ORS, to the Executive Director, and to the State of South Carolina (e.g., government, consumers, regulated utilities);
* events attended in the Executive Director’s official capacity, the sponsoring organizations, and descriptions of the activity (if speech or panel discussions, describe the topic);
* notable cases in which the Executive Director took an active role, including the case name, the docket number, and a brief summary of the deliberations and decision;
* greatest accomplishments of the ORS during the review period;
* the Executive Director’s most significant accomplishments as the Executive Director during the review period; and
* areas where there is room for improvement and an explanation as to how the Executive Director will take advantage of any opportunities for improvement.

Additionally, the Review Committee sent a survey to ORS employees and persons who interacted with the Executive Director, seeking their opinions with respect to the Executive Director’s knowledge of public utility issues, his adherence to ethical constraints, his treatment of persons who interacted with him, his effect on employee morale, and his understanding of the goals and mission of the agency. The Review Committee’s assessment of the Executive Director’s performance during the review period is attached.

If you have any questions, please contact Nancy Coombs at (803) 212-6308.

Exhibit A

State Regulation of Public Utilities Review Committee

Performance Evaluation

Agency: South Carolina Public Service Commission

**Period: July 1, 2008 – June 30, 2009**

**Mission: The mission of the Public Service Commission of South Carolina is to carry out the regulatory functions and responsibilities set forth for it by the laws and policies of the State of South Carolina pertaining to the utility and transportation companies through a dynamic and proactive regulatory process reflecting the increased competitive nature of the companies within the nation and this State while seeking to best serve the needs of all of the citizens of the State and also while encouraging a sense of satisfaction and accomplishment for employees.**

# Goal

# The commission employs fair procedures in its decisionmaking.

Objectives/Action Items

* The commission will comply with the letter and the spirit of the Freedom of Information Act.
* The commission will appoint hearing officers and examiners to dispose of procedural matters.
* The commission will adopt schedules in each docketed case so as to provide adequate time for parties to present their cases and to allow the commission to issue a decision in a timely manner.
* The commission will develop a process whereby keep commissioners apprised of the progress on the drafting of decisions so as to facilitate the issuance of orders in a timely manner.
* In coordination with the Office of Regulatory Staff, the commission will work towards the design and maintenance of a database that will facilitate public access to information.
* The commission will continue to archive past commission orders and make them available online in a searchable format.
* The commission will improve methods for companies and other entities to submit and access information, expand opportunities for electronic filings and post information promptly.
* The commission will actively enforce applicable disqualification rules and will document recusals.

Comments

*The commission accomplished all of the objectives and action items listed above. The commission’s FOIA officer responded to several requests for information and satisfied all requests by utilizing the Docket Management System. Hearing officers and examiners were appointed in 31 cases and issued 61 directives related to those cases. The commission notifies all parties associated with items on the upcoming weekly agenda either by telephone or email. A new customer complaint process being implemented aims to resolve cases in 45 days. The commission utilizes a monthly report to monitor the status of orders. The order process has been streamlined to dispense with formal orders for procedural matters and allows the commission to issue final “directives” instead. A joint company database between the commission and the Office of Regulatory Staff (ORS) that would contain company contact information and other detailed information, such as annual report data and operating history, became operational this year. This database is currently used internally to provide historical and contact information for staff, but the database will become available to the public in the near future. Enhancements were made to the Docketing Management System (DMS), which provides public access via the Internet to information on cases. Orders dating from 1974 are now posted on the DMS website. The commission completed the design of its Order Index System, an online system that cross references orders by case name and keywords. Phase I of this system will launch in early fall 2009. Electronic filing use has increased 12% from last year. The tariff electronic filing system (ETariff,) allows users to view tariffs online and file revisions and promotions to tariffs on file with the commission electronically. More than 75% of all tariff revisions are filed electronically. The commission continues to document disqualifications and recusals. Commissioners and staff review dockets weekly to determine if recusals are necessary.*

# Goal

# The commission is alert to and anticipates emerging issues in the industries it regulates, including federal regulatory developments.

Objectives/Action Items

* The commissioners and commission staff will attend meetings, conferences, and seminars dealing with utility issues, including those sponsored by the National Association of Regulatory Utility Commissioners.
* The commission will subscribe to public utility publications and will provide a process whereby all commissioners and professional staff are provided an opportunity to read articles of interest.
* When necessary, the commission will retain outside experts for presentations of emerging utility issues, including federal regulatory developments.
* The commission will hold in-house seminars on various areas of regulatory law for commissioners and staff, relying on both commission staff and outside experts.

Comments

The commission accomplished all of the objectives and action items listed above. Commissioners and staff attended the Southeast Association of Regulatory Utility Commissioner (SEARUC) Annual Conference, hosted by PSC Commissioner and SEARUC President, David Wright. Commissioners attended conferences sponsored by the National Association of Regulatory Utility Commissioners (NARUC) and the Southeast Association of Regulatory Utility Commissioners (SEARUC). The commission sent representatives to various functions, including the NARUC Utility Rate School, NARUC New Commissioner Training, NARUC Staff Subcommittee on Accounting and Finance, Nuclear Waste Strategy Coalition meetings, Eastern Interconnection committee meetings, Transmission Business School, Conference on Current Issues, NERC Planning Committee meetings, NERC Compliance and Certification Committee Meetings, Institute for Regulatory Law and Economics, Bonbright Center Electric and Natural Gas Conference, National Petroleum Council meeting, Gas Technology Institute Public Interest Committee meeting, and Emerging Issues Policy Forum. Commissioners hold various leadership positions within NARUC and SEARUC. The commission makes publications available to commissioners and staff, prepares and circulates a weekly compilation of links to articles of interest available on the Internet, and emails to the commissioners and staff monthly executive briefings published by the National Regulatory Research Institute (NRRI). The commission launched an internal blog to inform Commissioners and staff of current happenings on federal and state levels and provide a forum for discussion of current events. It also monitors court decisions and utility publications and websites to stay informed when relevant rulings and filings have been made or are scheduled to be made in anticipation of the subsequent affect on the PSC. Commission members attended webinars featuring outside experts for presentations concerning natural gas planning and pre-approval commitments for cost recovery. The commission held various in-house seminars on topics such as Natural Gas Rate Stabilization Act, Eligible Telecommunications Carrier designation, Base Load Review Act, and the Universal Service Fund.

# Goal

# The commission insists upon excellent

# performance in each industry it regulates.

Objectives/Action Items

* The commission will conduct public workshops to foster a better understanding of regulatory developments, identify best practices, and, when appropriate, promulgate industry standards.
* The commission will undertake a comprehensive review of its regulations and, when necessary and appropriate, propose revisions to regulations, solicit comments on the proposed regulations, and submit recommended amendments to regulations to the General Assembly.

Comments

*The commission accomplished all of the objectives and action items listed above. It held public workshops concerning renewable resources and clean energy, energy efficiency and demand side management, customer choice and technology investment act, and critical infrastructure issues. The General Assembly adopted revisions to regulations concerning motor carriers, electric, gas and telecommunications during the 2008 session. In addition, the General Assembly approved revisions concerning motor carriers, telecommunications, and practice and procedures. The commission received public comments and held public hearings on the proposed revisions.*

# Goal

# The commission aspires to professional excellence.

Objectives/Action Items

* The commission will conduct an ethics seminar for professional staff and administrative and support personnel.
* The commission will conduct a seminar on the administrative procedures act for commissioners, professional staff, and administrative and support personnel.
* The commission will publish an in-house ethics newsletter, providing commissioners and staff with updates on issues arising under the Code of Judicial Conduct and Title 8 of the South Carolina Code of Laws.
* The commission will designate an in-house ethics officer to respond to questions from commissioners and employees and to hear concerns from commissioners and employees regarding permissible or impermissible conduct.
* The commission will devise a comprehensive educational plan for commissioners and professional staff to ensure the commission has the necessary knowledge to adjudicate cases and identify issues and developments in utility law.

Comments

*The commission accomplished all of the objectives and action items listed above. The commissioners and staff attended an in-house ethics and administrative procedures act seminar. It published its in-house ethics newsletter. Members of the Commission’s Office of Special Assistants conducted presentations on purchased gas adjustment and fuel clauses, energy efficiency, rate making, introductory classes on accounting principles, electric industry regulation, natural gas regulation, and telecommunications regulation. The commission also developed individual and departmental training programs; however, due to budget constraints, most training classes were cancelled. It encourages staff members to participate in professional organizations in their field.*

*The commission has a prevention and wellness program to educate its members on good health practices. Some of the activities included cholesterol and blood pressure screening, weekly health tips, flu shots and a wellness website. Commission members also participated in several community service events to support and strengthen their communities through donations of time and resources.*

# Goal

# The commission enjoys productive relations with the

# General Assembly, the Office of Regulatory Staff, regulated industries, competitive entrants, and consumer representatives.

Objectives/Action Items

* The commission will develop guidelines for communicating with members of the General Assembly, the Office of Regulatory Staff, regulated utilities, competitive entrants, and consumer representatives, and communicate the protocol to all.
* The commission will hold meetings of its Advisory Committee at least once every six months to obtain suggestions as to how to improve its procedures.
* The Commission will develop and implement a process to anonymously send an anonymous survey to its Advisory Committee members to solicit their opinions regarding the Commission’s progress in carrying out its performance goals.
* The commission will provide regular reports to the Review Committee as to its activities - agency news, new hires, etc. - and make those reports available on its website.
* The commission will improve its website so as to provide more information and make it more accessible to the public.

Comments

*The commission accomplished all of the objectives and action items listed above.**It has established communications guidelines. The commission’s Advisory Committee meeting addressed issues related to operations and procedures, such as website modifications, statutory revisions to regulations, implementation of the directives as orders procedures, customer service complaint process, pro se litigants, and SEARUC 2009. The commission sent an anonymous survey to parties appearing before the commission and the docketing department conducts its own survey concerning customer satisfaction. The commission provides reports to the Review Committee by newsletters, email updates, budget reports and press**releases. The commission continually updates its website. A review of the commission’s transportation forms was conducted and paper forms were converted into interactive forms that can be completed online. The homepage received an average of 12,500 views per month, with requests from over 35 countries. The DMS website received a monthly average of 32,500 views, with visitors from 47 countries. The ETariff website received nearly 600 visits per month with visitors from 15 countries.*

# Goal

# For those dollars spent, the commission’s operations

# provide value to the citizens of South Carolina.

Objectives/Action Items

* The commission’s comptroller will prepare weekly reports reflecting the agency’s budgetary status.
* The commission’s chairman, chief administrator and comptroller will review the commission’s expenditures on a weekly basis and make necessary adjustments.
* The commission’s departments will submit their projected budgets for education, equipment, training, and other budgetary needs.
* The commissioners will be apprised of the commission’s fiscal affairs on a periodic basis.

Comments

The commission accomplished all of the above objectives and action items. The commission’s comptroller prepares a weekly budget analysis report, as well as a consolidated monthly report that is sent to the Budget and Control Board Division of Finance. The commission’s chairman, chief clerk, deputy clerk, and comptroller regularly review the agency’s budgetary status and make adjustments where necessary based on developed contingency plans. Prior to the beginning of the fiscal year, department managers submit budgets for all budgetary needs for their areas. Throughout the year, the managers update their requirements so that revisions can be made. The Chairman works with the Chief Clerk to plan the agency’s budget. Summary reports containing both budget and expense information are regularly compiled and provided to the commissioners.

Exhibit B

State Regulation of Public Utilities Review Committee

Performance Evaluation

**John E. “Butch” Howard**

**South Carolina Public Service Commission**

Seat: First Congressional District

Review Period: July 1, 2008 - September 30, 2009

Commissioner Howard was initially elected to the commission on March 3, 2004 and was reelected on May 21, 2008. He was elected Vice Chairman of the Public Service Commission in July 2008. During his tenure, he has taken advantage of many opportunities to expand his understanding of public utilities issues. Commissioner Howard seeks to increase his knowledge and skills by attending educational programs and seminars*.*  He has also reads professional and trade publications and books related to water, telecommunications and energy issues.

Commissioner Howard is an active member of NARUC and SEARUC and is the co-vice chairman of the NARUC Committee on Water. He attended the following educational programs and events:

* NARUC Rate School, sponsored by the Committee on Water (faculty member) ;
* Ethics Seminar;
* National Association of Water Companies Water Policy Forum, where he provided a commissioner’s point of view in a discussion of issues faced by water and wastewater utilities;
* “Securing Our Future: the Nuclear Alternative”, sponsored by MUSC;
* FERC/NERC Collaborative on Demand Response;
* FERC/NERC Collaborative Smart Grid;
* Lehman Brothers “Chat with Commissioners” where he was a panelist to discuss issues regarding economic viability of regulated utilities with members of the Wall Street community;
* S.C. Energy Users Committee Conference.

Commissioner Howard was recently asked to participate on the Department of Homeland Security’s Water Sector Coordinating Council, comprised of 50 members throughout the United States.

Based on surveys of persons appearing before the commission and commission employees, Commissioner Howard is courteous to all persons appearing before him, is impartial in his treatment of persons appearing before him, has a positive effect on employee morale, and is respected by attorneys and persons appearing before the commission. The Review Committee’s review revealed no evidence of unethical behavior by Commissioner Howard.

State Regulation of Public Utilities Review Committee

Performance Evaluation

**David A. Wright**

**South Carolina Public Service Commission**

Seat: Second Congressional District

Review Period: July 1, 2008 - September 30, 2009

Commissioner Wright was initially elected on March 3, 2004, and was re-elected on May 21, 2006. During his tenure, he has taken advantage of many opportunities to expand his understanding of public utilities issues.

Commissioner Wright is a member of NARUC’s Energy, Resources and the Environment Committee and its Washington Action Committee. He is chairman of SEARUC and NARUC’s Subcommittee on Nuclear Issues and Waste Disposal. He serves as national chairman for the Nuclear Waste Strategy Coalition (NWSC) and its board of directors. He is also the national chairman for the Yucca Mountain Task Force. He is a member of the Program Advisory Committee at Michigan State’s Institute of Public Utilities.

Commissioner Wright attended the following educational programs and events:

* NARUC meetings (summer, annual and winter);
* SEARUC Commissioners-Only meeting;
* Platts Conference on the Future of Nuclear in the U.S., where he gave a presentation concerning S.C.’s Base Load Review Act;
* NWSC meetings;
* Ethics Seminar;
* Testified before the U.S. Senate Energy Committee as SEARUC President on Senator Bingaman’s proposal to establish a national renewable portfolio standard;
* Participated in a roundtable discussion before the U.S. Senate Energy and Natural Resources Committee on the future of recycling and reprocessing;
* Attended and participated in several Capitol Hill visits through NARCU and NWSC concerning the history of Yucca Mountain and nuclear issues, such as nuclear waste disposal, reprocessing and recycling.

In addition to the above, Commissioner Wright was responsible for the planning, programming, and coordination for SEARUC’s annual Charleston. The conference was not only an opportunity for commissioners, their staffs, and others to share experiences and become knowledgeable about current regulatory issues but also an opportunity to showcase Charleston. The conference was well attended and a great success.

Based on surveys of persons appearing before the commission and commission employees, the subcommittee finds that Commissioner Wright is courteous to all persons appearing before him, is impartial in his treatment of persons appearing before him, has a positive influence on employee morale, and is respected by attorneys and persons appearing before the commission. The Review Committee’s review revealed no evidence of unethical behavior by Commissioner Wright.

State Regulation of Public Utilities Review Committee

Performance Evaluation

**Randy Mitchell**

**South Carolina Public Service Commission**

Seat: Third Congressional District

Review Period: July 1, 2008 - September 30, 2009

Commissioner Mitchell was initially elected to the commission for a term beginning July 1, 1998, and was most recently reelected on May 21, 2008. During his tenure, he has taken advantage of many opportunities to expand his understanding of public utilities issues. He is a member of NARUC’s Telecommunications Committee and serves as liaison between the Committee on Telecommunications and the Committee on Critical Infrastructure. He also serves a Vice Chairman of the “706 Special Access Study Committee of the Federal-State Joint Conference on Advanced Telecommunications Services, which is examining the public’s access to DSL service. Commissioner Mitchell seeks to increase his knowledge and skills by attending educational programs.

Commissioner Mitchell attended the following educational programs and events:

* NARUC summer conference, where he presented a report on the activities of the Joint Conference on Advanced Telecommunications Services regarding the progress of broadband and its recommendations to the FCC;
* SEARUC Commissioners Only meeting;
* Bonbright Electrical & Natural Gas Conference;
* NARUC annual conference, where he participated in a discussion concerning telecommunications and DSL;
* SEARUC Annual Conference, where he served as a moderator for a telecommunications panel;
* Given presentations at the Gilbert Ruritan Club (energy and the environment), Greenwood Lions Club (nuclear energy and Base Load Review Act), and Edgefield Legion Auxiliary (PSC operations).

Based on surveys of persons appearing before the commission and commission employees, Commissioner Mitchell is courteous to all persons appearing before him, is impartial in his treatment of persons appearing before him, has a positive influence on employee morale, and is respected by attorneys and persons appearing before the commission. The Review Committee’s review revealed no evidence of unethical behavior by Commissioner Mitchell.

State Regulation of Public Utilities Review Committee

Performance Evaluation

**Elizabeth “Lib” Fleming**

**South Carolina Public Service Commission**

Seat: Fourth Congressional District

Review Period: July 1, 2008 - September 30, 2009

Chairman Fleming was initially elected March 3, 2004, and was reelected May 21, 2006. She was elected PSC Chairman in July 2008. During her tenure, she has taken advantage of many opportunities to expand her understanding of public utilities issues. She is the chairman for NARUC’s Committee on Critical Infrastructure and a member of NARUC’s Board of Directors and its Committee on Electricity. She is also NARUC’s state designee for the Eastern Interconnection Planning Initiative and serves as an advisory council member for the Center for Public Utilities at New Mexico State University. Chairman Fleming seeks to increase her knowledge and skills by attending educational programs.

Chairman Fleming attended the following educational programs and events:

* NARUC Summer and Annual meetings;
* SEARUC Commissioners Only and Annual meetings;
* Bonbright Center Electric and Natural Gas Conference;
* Institute for Regulatory Law Economics;
* Gee Strategies Group - Utility Commissioner and Wall Street Journal Dialogue;
* Transmission Business School;
* Ethics seminar;
* Gave an update for the PSC at the S.C. Telephone Association Spring Convention and at SC Energy Users Committee meetings;
* Participated in the Converse College Women in Energy Luncheon and Panel Discussion;
* Served as Moderator for NARUC Electricity and Critical Infrastructure Panel.

Based on surveys of persons appearing before the commission and commission employees, Chairman Fleming is courteous to all persons appearing before her, is impartial in her treatment of persons appearing before her, has a positive influence on employee morale, and is respected by attorneys and persons appearing before the commission. The Review Committee’s review revealed no evidence of unethical behavior by Chairman Fleming.

State Regulation of Public Utilities Review Committee

Performance Evaluation

**G. O’Neal Hamilton**

**South Carolina Public Service Commission**

Seat: Fifth Congressional District

Review Period: June 30, 2008 - September 30, 2009

Commissioner Hamilton was initially elected on March 3, 2004, and was reelected on May 21, 2008. He was elected vice-chairman by the commissioners for a term beginning July 1, 2004, and chairman, July 1, 2006. He is the chairman of NARUC’s Committee on Gas and serves on NARUC’s Board of Directors. He is a member of the National Petroleum Council and the Moratoria Study Group, formed by NARUC and the Interstate Oil and Gas Compact Commission. During his tenure, he has taken advantage of many opportunities to expand his understanding of public utilities issues. Commissioner Hamilton seeks to increase his knowledge and skills by attending educational programs.

Commissioner Hamilton attended the following educational programs and events:

* NARUC Annual, Winter and Summer meetings;
* SEARUC Annual meeting;
* Ethics seminar;
* National Petroleum Council Meeting;
* Instructor at the NARUC New Commissioner Training;
* SEARUC Commissioners Only meeting;
* Bonbright Electric & Natural Gas Conference;
* Panelist for the New Mexico State University Center for Public Utilities Current Issues;
* Public Interest Advisory Committee Meeting, Gas Technology Institute;
* Presentation at the Piedmont Municipal Power Agency.

Based on surveys of persons appearing before the commission and commission employees, Commissioner Hamilton is courteous to all persons appearing before him, is impartial in his treatment of persons appearing before him, has a positive influence on employee morale, and is respected by attorneys and persons appearing before the commission. The Review Committee’s review revealed no evidence of unethical behavior by Commissioner Hamilton.

State Regulation of Public Utilities Review Committee

Performance Evaluation

**Swain E. Whitfield**

**South Carolina Public Service Commission**

Seat: At-Large

Review Period: July 1, 2008 - September 30, 2009

Commissioner Whitfield was elected to the commission for a term beginning July 1, 2008. During his short tenure, he has taken advantage of many opportunities to expand his understanding of public utilities issues. He is member of the NARUC Energy Resources and Environment Committee. Commissioner Whitfield seeks to increase his knowledge and skills by attending educational programs.

Commissioner Whitfield attended the following educational programs:

* PSC in-house training and ethics sessions;
* NARUC Boot Camp and new commissioner training;
* NARUC Annual, Winter, and Summer meetings;
* Nuclear Energy Summit, sponsored by MUSC;
* SEARUC Commissioners Only Summit and other SEARUC meetings;
* Bonbright Conference;
* Conquering Climate Change seminar.

Based on surveys of persons appearing before the commission and commission employees, Commissioner Whitfield is courteous to all persons appearing before him, is impartial in his treatment of persons appearing before him, has a positive influence on employee morale, and is respected by attorneys and persons appearing before the commission. The Review Committee’s review revealed no evidence of unethical behavior by Commissioner Whitfield.

Exhibit C

State Regulation of Public Utilities Review Committee

Performance Evaluation

Agency: South Carolina Office of Regulatory Staff

Period: July 1, 2008 - June 30, 2009

Mission: The Office of Regulatory Staff represents the public’s interest in utility regulation by balancing the concerns of the using and consuming public, the financial integrity of public utilities, and the economic development of South Carolina.

ORS MISSION

The ORS represents the public interest by balancing the concerns of the using and consuming public, the financial integrity of public utilities, and the economic development of South Carolina.

Goal:

The ORS is responsive to the public.

1. Objectives/Action Items

* The ORS resolves consumer complaints in a timely manner.
* The ORS provides technical regulatory assistance to public utilities.
* The ORS solicits public input on emerging issues.
* The ORS optimizes consumer education and outreach efforts by publishing brochures, fliers, and booklets and by communicating consumer-oriented information and news via its web site and participation in public forums.
* The ORS provides press releases and alerts to media when newsworthy matters involving public utilities arise.
* The ORS responds to requests for assistance from the Governor, legislators, and others.

Comments:

*The Office of Regulatory Staff accomplished all of the objectives and action items listed above. The ORS has continued to be very responsive to the public in FY 08-09 and maintained a helpful presence in both traditional mainstream media and on the ORS and SC.Gov websites. The ORS reports approximately 84 contacts from the media – resulting in direct coverage of the ORS in about 80 online and print news articles – a fourfold increase over the prior fiscal year. Further, the ORS distributed approximately 97,000 pieces of consumer education and outreach material. In addition to recurring cost savings initiated in a FY 06-07 agreement with a certain investor-owned utility as to offering real-time price signals, ORS staff processed 3,779 individual consumer complaints and inquiries in FY 08-09 and saved customers a total of $3,231,406. The ORS also worked with investor-owned electric and gas utilities and women’s shelters to waive the initial credit and deposit requirements for domestic violence victims and continued successful programs such as Safety Net, Lifeline, and Link-up. Further, the ORS has continued its exceptional tradition of excellent communication with legislative, gubernatorial, and other state agency staff.*

Goal:

The ORS promotes excellence in each regulated industry.

1. Objectives/Action Items

* The ORS analyzes and evaluates the performance of public utilities.
* The ORS equitably enforces the laws, rules, and regulations relating to public utilities.
* The ORS minimizes the regulatory burden on public utilities by providing technical assistance, streamlining processes, and communicating expectations.

Comments:

*The Office of Regulatory Staff accomplished all of the objectives and action items listed above. The ORS continued to promote excellence in regulated industries and monitored the performance of public utilities in South Carolina through 315 regulatory reviews and audits, an increase of 29% in audit activities compared to FY 07-08. ORS staff played an integral role in passage of the Customer Choice and Technology Investment Act of 2009, which allows local exchange carriers to elect further deregulatory treatment and reduce withdrawals from the State Universal Service Fund and Interim LEC Fund.*

*Consumer choice increased in the Eligible Telecommunications Carrier (ETC) market, as FY08-09 saw an increase in applications and approvals for ETC designation. The ORS also revised and simplified annual report forms, which resulted in increased utility/carrier compliance and provided 38 letters of support to electric and gas utilities for various financing options, special purchases, tariff modifications, or industrial incentives, which generally aid in the recruitment of new industry, retention of existing industry, and the financial health of South Carolina. The ORS also prepared a report in conjunction with the South Carolina Energy Office recommending processes and procedures for establishing net metering programs at all distribution electric utilities in South Carolina. Finally, the ORS increased use of rule-to-show-cause petitions to ensure that utilities comply with regulatory requirements. Of the 1,553 utilities named in a rule-to-show-cause petition, over 75% did not come into compliance and had their operating certificates revoked by the Public Service Commission. The rule-to-show-cause effort communicates to regulated utilities that the ORS will enforce the standards set by law.*

Goal:

The ORS’ operations provide value to the citizens of South Carolina in that the agency’s expenditures are focused on accomplishing one or more of the above performance measures.

1. Objectives/Action Items

The ORS represents all facets of the public interest consumers, public utilities, and the economic well being of South Carolina by facilitating settlement discussions among parties and by conducting mediations.

* The number of complaints processed, audits performed, enforcement actions brought, technical regulatory assistance provided, and commission proceedings participated in justify the number of employees and operational costs of the ORS.
* The societal benefits of utility rate stability and affordability, financial performance, infrastructure investment, competition, and environmental protection exceeds the monetary costs of the ORS’ operations.

Comments:

*The Office of Regulatory Staff accomplished all of the objectives and action items listed above. The ORS made prudent use of its expenditures to provide value to the citizens of South Carolina in FY 08-09. Again, ORS made effective use of staff, processing 3,779 individual consumer complaints and inquiries and completing 315 regulatory reviews and audits in FY 08-09. The ORS facilitated 39 settlement agreements during FY 08-09, generating total customer savings of approximately $148 million. The ORS continued to research and analyze SC’s generational mix, future needs, and potential solution. The ORS presented an extensive study to state and federal lawmakers on these issues and how federal cap-and-trade may affect the state. One very important tool the ORS has emphasized as a solution to the state’s need for reliable carbon neutral power has been the Base Load Review Act. Under the Act, the ORS supported SCE&G’s application of two new nuclear units in the Midlands. The construction and subsequent operation of these Units 2 and 3 at the V.C. Summer Plant will employ approximately 3,600 people during the ten-year construction phase, and will provide a reliable carbon neutral power source for years to come. These units could generate as much as $1 billion in federal tax credits, and the ORS continues to monitor Congressional action on these potential credits. The ORS has also engaged the Surface Transportation Board in an effort to address concerns that the rapidly accelerating cost of coal transportation via rail for electric fuel generation will ultimately have an adverse impact on electric consumers. One third of the total delivered cost of coal is transportation cost, and an annual ORS fuel review reveals that for two specific regulated electric utilities generating electricity for South Carolina consumers, rail rate increases of between 50% and 100% on expiring five- and ten-year contracts respectively will result in additional charges of over $100,000,000 to consumers. The ORS sought to bring this issue to the forefront so that SC’s captive electric plants are not put in the unfortunate position of having to pay exorbitant unjustified prices for coal transportation. There is no question that the ORS’s societal value far exceeds the monetary costs of the ORS’s operations.*

Goal:

The ORS is alert and Anticipates state and federal regulatory and industry developments and their effects on South Carolina.

1. Objectives/Action Items

* The ORS consults with and/or retains recognized experts to assess emerging trends or specific issues.
* The ORS reviews, analyzes, and monitors regulatory, statutory, and judicial decisions or trends on both the federal and state levels with regard to utility regulation. The ORS gathers and provides input, participates, or takes other appropriate action when necessary.

Comments:

*The Office of Regulatory Staff accomplished all of the objectives and action items listed above. Again, the ORS has been vigilant in FY 08-09 in monitoring and responding to potential federal regulation of greenhouse gas emissions, and has also continued to monitor potential federal renewable portfolio standards. The ORS published the S.C. Energy Policy Report and presented its findings to an unprecedented gathering of the entire SC Congressional Delegation in Washington. The ORS has kept South Carolina’s state and federal leaders aware that a coal intensive generational mix, high electricity consumption, low median household income, and a lack of viable renewable energy sources could lead to disastrous consequences in South Carolina over the next few decades under these new federal mandates. As seen with the ORS’s support for the V.C. Summer facility, the ORS has shown its dedication to developing reliable carbon neutral energy sources in South Carolina to mitigate the potential impact of these possible federal mandates. In light of interest in potential stimulus package money, ORS and the State Energy Office conducted several meetings with electric suppliers including investor-owned electric utilities, electric cooperatives, Santee Cooper, and municipal suppliers to discuss funding available through the American Recovery and Reinvestment Act of 2009. The federal stimulus money, available to each South Carolina electric utility, is matching fund grants that are capped at $20 million, and the ORS continues to pursue funding that does not have a matching requirement. The ORS has posted links on its web site to critical dates pertaining to various U.S. Department of Energy ARRA funding opportunities. The ORS has also continued to be active in representing the state’s interests in matters before the Federal Communications Commission, the Surface Transportation Board, and the Federal Energy Regulatory Commission.*

Goal:

The ORS’ operations are marked by professional excellence.

1. Objectives/Action Items

* The ORS manages human resources and human resource systems to hire and retain qualified personnel who will carry out the mission of the ORS.
* The ORS executive director and staff maintain and enhance their knowledge by attending conferences and meetings, keeping abreast of best regulatory practices in other states, and participating in ethic training and other types of internal and external professional training.
* The ORS embraces the implementation of technology in the workplace.
* The ORS responds to requests for assistance from the Governor, legislators, and others.
* The ORS coordinates with other state and federal agencies.

Comments:

*The Office of Regulatory Staff accomplished all of the objectives and action items listed above. The ORS’s operations are unmistakably marked by professional excellence. A new database system, new offices at 1401 Main Street, and plans to enhance the current website are a few of the physical changes in FY 08-09 that will assist the ORS in maintaining its high standards. Ongoing staff training in ethics, regulatory environment, and service delivery have continued to keep these standards high as well. ORS staff decreased or maintained average time to resolve contacts from customers (when compared to prior four-year average) in the following categories: Electric, Natural Gas, Wastewater, Transportation, and Water. The Review Committee has both experienced and received comments on the professional and diligent manner the ORS staff exhibits at every level. The ORS has an impressive list of federal, state, and local agencies and entities, both public and private, that it collaborates with; the consensus among these groups is that the ORS is an agency to be congratulated and appreciated.*

Exhibit D

STATE REGULATION OF PUBLIC UTILITIES REVIEW COMMITTEE

PERFORMANCE EVALUATION

C. Dukes Scott, Executive Director

Office of Regulatory Staff

Review Period: July 1, 2008 - September 30, 2009

C. Dukes Scott was appointed as Executive Director of the Office of Regulatory Staff (ORS) on July 1, 2004. Prior to his appointment as Executive Director, Mr. Scott served in many capacities in public service, beginning as a staff attorney at the South Carolina Public Service Commission (the commission), progressing to executive assistant to the commissioners, general counsel, and deputy director of the commission. He was elected to the commission in 1994 and was elected as an administrative law judge in 1999. He also worked in private practice in the public utility arena. Mr. Scott brings a wealth of experience in the public utility and administrative law areas to his position as Executive Director.

Mr. Scott is committed to excellence and leads by example, giving his staff a clear direction of the agency’s mission and the standards it should follow to achieve that mission. He upholds the highest standards of professionalism in his conduct, work ethic, and his interactions with utilities, regulatory bodies, and the using and consuming public. He continues to work diligently to make ORS a model of integrity and efficiency in state government. He encourages his employees to grow professionally and expects high standards from them. He credits his staff for the successes of the agency. His staff is recognized for their professionalism and thoroughness in performing their jobs.

Mr. Scott's knowledge of the broad spectrum of public utility issues is unsurpassed in this state. At the request of the Review Committee, Mr. Scott and his staff undertook a comprehensive study of South Carolina's energy situation - what resources the state has in place, how electricity is used, what renewable resources are available, what energy efficiency programs are available or desirable, and what message we need to send Congress about the unique challenges we would face if pending federal legislation dealing with carbon emissions were adopted. Along with members of the Review Committee, he met with South Carolina's Congressional delegation to help them better understand the impact of any federal action addressing climate change. Mr. Scott is always responsive to all persons seeking his assistance - the Review Committee, legislators, other agencies and officials, utility representatives, and many individual consumers themselves.

According to surveys of parties or other persons who interacted with him during the review period, Mr. Scott is professional, courteous, impartial, fair, and highly ethical in his dealings with utilities and other stakeholders. Mr. Scott enjoys the highest level of respect from parties and others who interacted with him during the review period. According to surveys of his employees, Mr. Scott provides valuable leadership and sound guidance to his employees and is highly respected and admired by his staff. It is clear from the surveys that Mr. Scott creates a positive work environment for his employees, and by his example, leads an agency that is responsive to the public and all other stakeholders. Mr. Scott is a compassionate advocate for consumers and a tenacious watchdog for the public interest of South Carolina. He excels in all aspects of his job and is an effective administrator, an outstanding public servant, and an invaluable resource for this state.

On motion of Senator ALEXANDER, the report was ordered printed in the Journal.

**Judicial Merit Selection Commission**

**Report of Candidate Qualifications**

Date Draft Report Issued: January 14, 2010

Date and Time:

Final Report Issued: Noon, Tuesday, January 19, 2010

**Judicial candidates are not free to seek or accept commitments until Tuesday, January 19, 2010 at Noon.**

**Judicial Merit Selection Commission**

Rep. F.G. Delleney, Jr., C hairman Jane O. Shuler, Chief Counsel

Sen. Glenn F. McConnell, V-Chairman Heather Anderson

Rep. Alan D. Clemmons Paula G. Benson

John P. Freeman Nancy V. Coombs

John Davis Harrell Joel Deason

Sen. John M. “Jake” Knotts, Jr. Patrick B. Dennis

Rep. David J. Mack III Andrew T. Fiffick IV

Amy Johnson McLester J.J. Gentry

Sen. Floyd Nicholson Bonnie B. Goldsmith

H. Donald Sellers Post Office Box 142 E. Katherine Wells

Columbia, South Carolina 29202 Bradley S. Wright

(803) 212-6623

January 14, 2010

Dear Members of the General Assembly:

Enclosed is the Judicial Merit Selection Commission’s Report of Candidate Qualifications. This Report is designed to assist you in determining how to cast your vote. The Commission is charged by law with ascertaining whether judicial candidates are qualified for service on the bench. In accordance with this mandate, the Commission has thoroughly investigated all judicial candidates for their suitability for judicial service. The Commission found all candidates discussed in this Report to be qualified.

The Commission's finding that a candidate is qualified means that the candidate satisfies both the constitutional criteria for judicial office and the Commission’s evaluative criteria. The attached Report details each candidate's qualifications as they relate to the Commission’s evaluative criteria.

Judicial candidates are **prohibited** from asking for your commitment until **12:00 Noon on Tuesday, January 19, 2010**. **Members of the General Assembly are not permitted to issue letters of introduction, announcements of candidacy, statements detailing a candidate’s qualifications, or commitments to vote for a candidate until 12:00 Noon on Tuesday, January 19, 2010. In sum, no member of the General Assembly should, orally or by writing, communicate about a candidate’s candidacy until the time designated after release of the Judicial Merit Selection Commission's Report of Candidate Qualifications.** If you find a candidate violating the pledging prohibitions or if you have questions about this report, please contact the Commission office at 212-6623.

Thank you for your attention to this matter.

Sincerely,

F. G. Delleney, Jr., Chairman

Glenn F. McConnell, Vice-Chairman

**Judicial Merit Selection Commission**

Rep. F.G. Delleney, Jr., C hairman Jane O. Shuler, Chief Counsel

Sen. Glenn F. McConnell, V-Chairman Heather Anderson

Rep. Alan D. Clemmons Paula G. Benson

John P. Freeman Nancy V. Coombs

John Davis Harrell Joel Deason

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Amy Johnson McLester J.J. Gentry

Sen. Floyd Nicholson Bonnie B. Goldsmith

H. Donald Sellers Post Office Box 142 E. Katherine Wells

Columbia, South Carolina 29202 Bradley S. Wright

(803) 212-6623

January 14, 2010

Members of the South Carolina General Assembly

South Carolina State House

Columbia, South Carolina

Dear Fellow Members:

This letter is written to call your attention to issues raised during the December 2003 Judicial Merit Selection hearings concerning a judicial candidate’s contact with members of the General Assembly, as well as third parties contacting members on a candidate’s behalf. It is also to remind you of these issues for the Fall 2009 screening.

Section 2-19-70(c) of the South Carolina Code contains strict prohibitions concerning candidates seeking or legislators giving their pledges of support or implied endorsement through an introduction prior to 48 hours after the release of the final report of the Judicial Merit Selection Commission (Commission). The purpose of this section was to ensure that members of the General Assembly had full access to the report prior to being asked by a candidate to pledge his or her support. The final sentence of Section 2-19-70 (c) provides that “the prohibitions of this section do not extend to **an announcement of candidacy** **by the candidate** **and statements by the candidate** detailing the candidate’s qualifications” (emphasis added). Candidates may not, however, contact members of the Commission regarding their candidacy; please note that six members of the Commission also are legislators.

In April 2000, the Commission determined that Section 2-19-70(c) means **no** member of the General Assembly should engage in any form of communication, written or verbal, concerning a judicial candidate before the 48-hour period expires following the release of the Commission’s report. The Commission would like to clarify and reiterate that until at least 48 hours have expired after the Commission has released its final report of candidate qualifications to the General Assembly**,** only candidates, and not members of the General Assembly, are permitted to issue letters of introduction, announcements of candidacy, or statements detailing the candidates’ qualifications.

The Commission would again like to remind members of the General Assembly that a violation of the screening law is likely a disqualifying offense and must be considered when determining a candidate’s fitness for judicial office. Further, the law requires the Commission to report any violations of the pledging rules by members of the General Assembly to the House or Senate Ethics Committee, as may be applicable.

Should you have any questions regarding this letter or any other matter pertaining to the judicial screening process, please do not hesitate to call Jane O. Shuler, Chief Counsel to the Commission, at 212-6629.

Sincerely,

F.G. Delleney, Jr., Chairman

Glenn F. McConnell, Vice-Chairman

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**INTRODUCTION**

The Judicial Merit Selection Commission is charged by law to consider the qualifications of candidates for the judiciary. This report details the reasons for the Commission's findings, as well as each candidate's qualifications as they relate to the Commission's evaluative criteria. The Commission operates under the law that went into effect July 1, 1997, and which dramatically changed the powers and duties of the Commission. One component of this law is that the Commission’s finding of “qualified” or “not qualified” is binding on the General Assembly. The Commission is also cognizant of the need for members of the General Assembly to be able to differentiate between candidates and, therefore, has attempted to provide as detailed a report as possible.

The Judicial Merit Selection Commission is composed of ten members, four of whom are non-legislators. The Commission has continued the more in-depth screening format started in 1997. The Commission has asked candidates their views on issues peculiar to service on the court to which they seek election. These questions were posed in an effort to provide members of the General Assembly with more information about candidates and the candidates’ thought processes on issues relevant to their candidacies. The Commission has also engaged in a more probing inquiry into the depth of a candidate's experience in areas of practice that are germane to the office he or she is seeking. The Commission feels that candidates should have familiarity with the subject matter of the courts for which they offer, and feels that candidates’ responses should indicate their familiarity with most major areas of the law with which they will be confronted.

The Commission also used the Citizens Committees on Judicial Qualifications as an adjunct of the Commission. Since the decisions of our judiciary play such an important role in people’s personal and professional lives, the Commission believes that all South Carolinians should have a voice in the selection of the state’s judges. It was this desire for broad-based grassroots participation that led the Commission to create the Citizens Committees on Judicial Qualifications. These committees, composed of people from a broad range of experiences (lawyers, teachers, businessmen, bankers, and advocates for various organizations; members of these committees are also diverse in their racial and gender backgrounds), were asked to advise the Commission on the judicial candidates in their regions. Each regional committee interviewed the candidates from its assigned area and also interviewed other individuals in that region who were familiar with the candidate either personally or professionally. Based on those interviews and its own investigation, each committee provided the Commission with a report on their assigned candidates based on the Commission’s evaluative criteria. The Commission then used these reports as a tool for further investigation of the candidate if the committee’s report so warranted. Summaries of these reports have also been included in the Commission’s report for your review.

The Commission conducts a thorough investigation of each candidate's professional, personal, and financial affairs, and holds public hearings during which each candidate is questioned on a wide variety of issues. The Commission's investigation focuses on the following evaluative criteria: constitutional qualifications, ethical fitness, professional and academic ability, character, reputation, physical health, mental health, and judicial temperament. The Commission's investigation includes the following:

(1) survey of the bench and bar;

(2) SLED and FBI investigation;

(3) credit investigation;

(4) grievance investigation;

(5) study of application materials;

(6) verification of ethics compliance;

(7) search of newspaper articles;

(8) conflict of interest investigation;

(9) court schedule study;

(10) study of appellate record;

(11) court observation; and

(12) investigation of complaints.

While the law provides that the Commission must make findings as to qualifications, the Commission views its role as also including an obligation to consider candidates in the context of the judiciary on which they would serve and, to some degree, govern. To that end, the Commission inquires as to the quality of justice delivered in the courtrooms of South Carolina and seeks to impart, through its questioning, the view of the public as to matters of legal knowledge and ability, judicial temperament, and the absoluteness of the Judicial Canons of Conduct as to recusal for conflict of interest, prohibition of ex parte communication, and the disallowance of the acceptance of gifts. However, the Commission is not a forum for reviewing the individual decisions of the state’s judicial system absent credible allegations of a candidate’s violations of the Judicial Canons of Conduct, the Rules of Professional Conduct, or any of the Commission’s nine evaluative criteria that would impact a candidate’s fitness for judicial service.

The Commission expects each candidate to possess a basic level of legal knowledge and ability, to have experience that would be applicable to the office sought, and to exhibit a strong adherence to codes of ethical behavior. These expectations are all important, and excellence in one category does not make up for deficiencies in another.

Routine questions related to compliance with ethical Canons governing ethics and financial interests are now administered through a written questionnaire mailed to candidates and completed by them in advance of each candidate’s staff interview. These issues were no longer automatically made a part of the public hearing process unless a concern or question was raised during the investigation of the candidate. The necessary public record of a candidate’s pledge to uphold the Canons, etc. is his or her completed and sworn questionnaire.

Written examinations of the candidates’ knowledge of judicial practice and procedure were given at the time of candidate interviews with staff and graded on a “blind” basis by a panel of four persons designated by the Chairman. In assessing each candidate's performance on these practice and procedure questions, the Commission has placed candidates in either the “failed to meet expectations” or “met expectations” category. The Commission feels that these categories should accurately impart the candidate's performance on the practice and procedure questions.

This report is the culmination of weeks of investigatory work and public hearings. The Commission takes its responsibilities seriously, as it believes that the quality of justice delivered in South Carolina's courtrooms is directly affected by the thoroughness of its screening process. Please carefully consider the contents of this report, as we believe it will help you make a more informed decision.

This report conveys the Commission's findings as to the qualifications of all candidates currently offering for election to the Supreme Court, Court of Appeals, Circuit Court, Family Court, and Administrative Law Court.

**SUPREME COURT**

**Donald W. Beatty**

**Supreme Court, Seat 5**

**Commission’s Findings: QUALIFIED AND NOMINATED**

(1) Constitutional Qualifications:

Based on the Commission’s investigation, Justice Beatty meets the qualifications prescribed by law for judicial service as a Supreme Court Justice.

Justice Beatty was born in 1952. He is 57 years old and a resident of Spartanburg, South Carolina. Justice Beatty provided in his application that he has been a resident of South Carolina for at least the immediate past five years and has been a licensed attorney in South Carolina since 1979.

(2) Ethical Fitness:

The Commission’s investigation did not reveal any evidence of unethical conduct by Justice Beatty.

Justice Beatty demonstrated an understanding of the Canons of Judicial Conduct and other ethical considerations important to judges, particularly in the areas of ex parte communications, acceptance of gifts and ordinary hospitality, and recusal.

Justice Beatty reported that he has not made any campaign expenditures.

Justice Beatty testified he has not:

(a) sought or received the pledge of any legislator prior to screening;

(b) sought or been offered a conditional pledge of support by a legislator;

(c) asked third persons to contact members of the General Assembly prior to screening.

Justice Beatty testified that he is aware of the Commission’s 48-hour rule regarding the formal and informal release of the Screening Report.

(3) Professional and Academic Ability:

The Commission found Justice Beatty to be intelligent and knowledgeable. His performance on the Commission’s practice and procedure questions met expectations.

Justice Beatty described his past continuing legal or judicial education during the past five years as follows:

Conference/CLE Name Date

(a) Judicial Symposium 01/27-28/2005;

(b) Science in the Courts 4/07-13/2005;

(c) Economics of Tort Law;

Economic Theory of Contract Law; Crime 05/25-27/2005;

(d) Post Conviction Relief Seminar 06/09/2005;

(e) Forum for State Appellate Court Judges 06/23/2005;

(f) Annual Judicial Symposium-Torts and Scientific Evidence 07/15/2005;

(g) Forum for State Appellate Court Judges 07/23/2005;

(h) 2005 Annual Judicial Conference 08/24/2005;

(i) Judicial Symposium 11/2-4/2005;

(j) Fourth Annual Civil Law Update 01/27/2006;

(k) 21st Annual Criminal Law Update 01/27/2006;

(l) Trial and Appellate Advocacy 01/28/2006;

(m) Critical Issues in Construction Defects Litigation 03/29/2006;

(n) Court Security and Operations after a disaster 06/29/2006;

(o) Essential Skills for the Appellate Judge 07/01/2006;

(p) Forum for Appellate State Court Judges 07/15/2006;

(q) Mini Summit on Justice for Children 08/22/2006;

(r) 2006 Annual Judicial Conference 08/23/2006;

(s) “Insurance and Risk Allocation in America: Economics

Law and Regulation” 09/20/2006;

(t) Employment Law; Immigration Law; Civil Procedure 09/28/2006;

(u) SCDTAA Annual Meeting 11/09/2006;

(v) 5th Annual Civil Law Update 01/26/2007;

(w) 22nd Annual Criminal Law Update 01/26/2007;

(x) The Confrontation Clause of the 6th Amendment 02/28-03/01/07;

(y) N.C./S.C. Appellate Judges Conference 03/01/2007;

(z) E-Discovery and Spoliation 06/29/2007;

(aa) New Appellate Judges Training 07/8-13/07;

(bb) 2007 Annual Judicial Conference 08/22/2007;

(cc) 23rd Annual S.C. Crim. Law Update 01/25/2008;

(dd) 23rd Annual S.C. Crim. Law Update 01/25/2008;

(ee) Breakfast Ethics Seminar 01/27/2008;

(ff) Justice In Jeopardy? 07/11-12/08;

(gg) Summary Judgment on the Rise 07/12/2008;

(hh) SCAJ Annual Convention 08/7-9/2008;

(ii) 2008 Annual Judicial Conference 08/20/2008;

(jj) Federalist Papers 0/23/2008;

(kk) Annual Summit & Retreat 10/30/2008;

(ll) Appellate Summit 11/13/2008;

(mm) 7th Annual Civil Law Update 01/23/2009;

(nn) Mapping the Legal Frontier-Preemption by Federal Court 07/10-12/09;

(oo) Preemption: Will Traditional State Authority Survive 07/25/2009;

(pp) SCAJ Annual Convention 08/6-8/2009.

Justice Beatty reported that he has taught the following:

(a) Business Law – Limestone College;

(b) Appellate Practice CLE-Wofford College;

(c) Appellate Practice and Ethics CLE-Charleston Law School;

(d) Civil and Criminal Law CLE-S.C. Black Lawyers Conference;

(e) Ethics-National Bar Association.

Justice Beatty reported that he has not published any books or articles.

(4) Character:

The Commission’s investigation of Justice Beatty did not reveal evidence of any founded grievances or criminal allegations made against him. The Commission’s investigation of Justice Beatty did not indicate any evidence of a troubled financial status. Justice Beatty has handled his financial affairs responsibly.

The Commission also noted that Justice Beatty was punctual and attentive in his dealings with the Commission, and the Commission’s investigation did not reveal any problems with his diligence and industry.

(5) Reputation:

Justice Beatty reported regarding his Martindale-Hubbell rating, “I have never concerned myself with Martindale-Hubbell ratings and am unfamiliar with any rating I may have had prior to taking the bench. I have never had a client to ask me about my Martindale-Hubbell rating nor have I had a client to say that they came to me for representation because of a Martindale-Hubbell rating. Thus, I have not found Martindale-Hubbell to be beneficial or relevant to my practice. I have never reviewed Martindale-Hubbell ratings.”

Justice Beatty reported the following military service:

1974-76 U.S. Army (Active Duty); 1976-81 Army Reserves; Captain; [xxx-xx-xxxx], Honorable Discharge

Justice Beatty reported that he has held the following public offices:

(a) S.C. House of Representatives 1991-95 (elected);

(b) Spartanburg City Council 1989-91 (elected).

(6) Physical Health:

Justice Beatty appears to be physically capable of performing the duties of the office he seeks.

(7) Mental Stability:

Justice Beatty appears to be mentally capable of performing the duties of the office he seeks.

(8) Experience:

Justice Beatty was admitted to the South Carolina Bar in 1979.

He gave the following account of his legal experience since graduation from law school:

Prior to enrolling in law school I decided that I would commit myself to initially work in an area of the law that would benefit those who could not afford paid legal representation. To that end I enrolled in the legal clinics offered at the University of South Carolina School of Law. The clinics program provided me an opportunity to work with the Legal Services Corporation. During the summers, I interned with Legal Services and the Law Students Civil Rights Intern Program. As a result I was offered, and accepted, a position with Legal Services upon graduation from law school.

From 1979 to 1981 I worked with Neighborhood Legal Assistance Program (NLAP). The work at NLAP was exclusively civil. I gained experience in family law, social security, landlord tenant, and public benefits. I appeared in court on a weekly basis.

I left legal services in 1981 and started my own practice. I was a solo practitioner from 1981-1989. My practice was general in nature and primarily consisted of family law, personal injury and criminal law. I was in court at least two to three times a week and handled a considerable and varied case load.

In 1989 I joined Beatty, Vick, & Tullis. Our focus was personal injury, criminal law, family law and bankruptcy. In 1991 I left the firm and founded my own firm. We were a small firm with two attorneys, three paralegals and other support staff. The Beatty Law Firm maintained a general practice with emphasis on family law, personal injury and criminal law. Our civil practice represented plaintiffs and defendants, businesses and individuals.

Justice Beatty reported that he has held the following judicial offices:

(a) S.C. Circuit Court 1995-2003, Elected – General Jurisdiction;

(b) S.C. Court of Appeals 2003-2007, Elected- Appellate Review;

(c) S.C. Supreme Court 2007-Present, Elected- Appellate Review.

Justice Beatty provided the following list of his most significant orders or opinions:

(a) Colleton Preparatory Academy, Inc. v. Hoover Universal, Inc., 379 S.C. 181, 666 S. E.2d 247;

(b) Donna Moore v. Lance Moore, 376 S.C. 467, 657 S.E.2d 743;

(c) Laura McCann v. Jane Doe and John Doe, In re Baby McCann, 377 S.C. 373,660 S.E.2d 500;

(d) Charles Salmonsen v. CGD, Inc. f/k/a Charleston Gypsum Dealers & Supply Co., Inc., 377 S.C. 442, 661 S.E.2d 81, Prod.Liab.Rep. (CCH) P 17,994;

(e) Donney S. Council a/k/a Donnie S. Council v. State of South Carolina, 380 S.C. 159, 670 S.E.2d 356 (Certiorari denied by U.S. Supreme Court, June 8, 2009).

(9) Judicial Temperament:

The Commission believes that Justice Beatty’s temperament has been and would continue to be excellent.

(10) Miscellaneous:

Justice Beatty is married to Angela Chestnut Beatty. He has three children.

Justice Beatty reported that he was a member of the following bar associations and professional association:

S.C. Bar Association

Justice Beatty provided that he was a member of the following civic, charitable, educational, social, or fraternal organizations:

(a) Omega Psi Phi Fraternity;

(b) Sigma Pi Phi Fraternity.

Justice Beatty further reported:

Most of my adult life has been focused on public service. For more than three decades I have been involved with public service in varied capacities including military service as an officer, City Councilman, member of the House of Representatives, Judge, Justice, and numerous civic boards and commissions.

In addition, I have served on committees and task forces concerning the judiciary. Most recently, I served as an organizer and participant in the S.C. Summit on Children. The focus here was to devise a plan to expedite the movement of children from foster care to permanent placement via adoption or otherwise. I am a member of a multi agency task force concerned with the continued operation of courts in a catastrophic situation. I am currently planning and organizing the annual judicial conference. This conference is primarily an educational program for judges.

Currently, I am a member of the Chief Justice’s Task force on Access to Public Information. I am also a member of the Sentencing Reform Commission. Service in the judiciary is more than an employment opportunity, it is an opportunity to serve the public and I welcome it.

In conclusion, I graduated cum laude from college, was selected to Who’s Who in American Colleges and Universities, and I have received numerous leadership awards from government and civic organizations.

**The Upstate Citizen’s Committee on Judicial Qualification found Justice Beatty to be “Well-Qualified” for each of the nine evaluative criteria: constitutional qualifications, ethical fitness, professional and academic ability, character, reputation, physical health, mental stability, experience, and judicial temperament.**

(11) Commission Members’ Comments:

The Commission commented on Justice Beatty’s distinguished service on the bench for 14 years, including his past two years serving as a Justice on the Supreme Court.

(12) Conclusion:

The Commission found Justice Beatty qualified and nominated him for re-election to the Supreme Court.

**COURT OF APPEALS**

**John Cannon Few**

**Court of Appeals, Chief Judge, Seat 5**

**Commission’s Findings: QUALIFIED AND NOMINATED**

(1) Constitutional Qualifications:

Based on the Commission’s investigation, Judge Few meets the qualifications prescribed by law for judicial service as the Chief Judge for the Court of Appeals.

Judge Few was born in 1963. He is 46 years old and a resident of Greenville, South Carolina. Judge Few provided in his application that he has been a resident of South Carolina for at least the immediate past five years and has been a licensed attorney in South Carolina since 1988.

(2) Ethical Fitness:

The Commission’s investigation did not reveal any evidence of unethical conduct by Judge Few.

Judge Few demonstrated an understanding of the Canons of Judicial Conduct and other ethical considerations important to judges, particularly in the areas of ex parte communications, acceptance of gifts and ordinary hospitality, and recusal.

Judge Few reported that he has not made any campaign expenditures.

Judge Few testified he has not:

(a) sought or received the pledge of any legislator prior to screening;

(b) sought or been offered a conditional pledge of support by a legislator;

(c) asked third persons to contact members of the General Assembly prior to screening.

Judge Few testified that he is aware of the Commission’s 48-hour rule regarding the formal and informal release of the Screening Report.

(3) Professional and Academic Ability:

The Commission found Judge Few to be intelligent and knowledgeable. His performance on the Commission’s practice and procedure questions met expectations.

Judge Few described his past continuing legal or judicial education during the past five years as follows:

Conference/CLE Name Date

(a) S.C. Circuit Judges’ 05/05/04;

(b) Judicial Oath of Office 08/19/04;

(c) Annual S.C. Solicitors’ 09/26/04;

(d) 20th Annual Criminal Law Update 01/21/05;

(e) Circuit Court Judges 05/11/05;

(f) Annual Judicial Conference 08/24/05;

(g) SCDTAA Annual Meeting 11/03/05;

(h) Advanced Evidence 09/25/05;

(i) Teaching Evidence 11/14/05;

(j) Fourth Annual Civil Law Update 01/27/06;

(k) 21st Annual Criminal Law Update 01/27/06;

(l) 20th Circuit Court Judges’ 05/10/06;

(m) SCCA Judicial Conference 08/23/06;

(n) 22nd Annual Criminal Law Update 01/26/07;

(o) 5th Annual Civil Law Update 01/26/07;

(p) Circuit Court Judges’ 05/16/07;

(q) SCCA Judicial Conference 08/22/07;

(r) 23rd Annual Criminal Law Update 01/25/08;

(s) 6th Annual Civil Law Update 01/25/08;

(t) Circuit Court Judges’ 05/14/08;

(u) SCCA Judicial Conference 08/20/08;

(v) 24th Annual Criminal Law Update 01/23/09;

(w) Circuit Court Judges’ 05/06/09.

Judge Few reported that he has taught the following law-related courses:

(a) I have done a good bit of teaching and lecturing at continuing legal education classes since I began practicing law, and I continued doing that after I became a judge. I have spoken at Greenville Bar Association CLE programs several times. I have spoken at numerous South Carolina Bar programs as well. In addition, I am a member of the faculty at the National Judicial College, where I taught a class on evidence to other judges in September 2005, and in August 2007. I am currently scheduled to teach a class on evidence through the National Judicial College in September. I have spoken on at least six occasions to the South Carolina Defense Trial Attorneys Association, three times at their summer meeting at the Grove Park Inn in Asheville, and three at their annual meeting, which is held in a different location each year. I have spoken to the South Carolina Association for Justice Auto Torts seminar in Atlanta. In February 2008 and 2009 I organized and moderated a full-day evidence CLE for the South Carolina Bar entitled “It’s All A Game: Top Trial Lawyers Tackle Evidence.” That program will be presented again in February, 2010. In the summer of 2008 I served as an Adjunct Professor at the Charleston School of Law teaching Advanced Evidence;

(b) I have a list available of all the CLE presentations I have made in my career, which I have not attached, but will provide upon request.

Judge Few reported that he has not published any books or articles since he became a judge in 2000.

(4) Character:

The Commission’s investigation of Judge Few did not reveal evidence of any founded grievances or criminal allegations made against him. The Commission’s investigation of Judge Few did not indicate any evidence of a troubled financial status. Judge Few has handled his financial affairs responsibly.

The Commission also noted that Judge Few was punctual and attentive in his dealings with the Commission, and the Commission’s investigation did not reveal any problems with his diligence and industry.

(5) Reputation:

Judge Few reported that his last available Martindale-Hubbell rating was AV.

(6) Physical Health:

Judge Few appears to be physically capable of performing the duties of the office he seeks.

(7) Mental Stability:

Judge Few appears to be mentally capable of performing the duties of the office he seeks.

(8) Experience:

Judge Few was admitted to the South Carolina Bar in 1988.

He gave the following account of his legal experience since graduation from law school:

(a) 1989-97 - Private Civil Practice, in partnership with my father, J. Kendall Few;

(b) 1997-2000 - Private Civil Practice by myself.

Judge Few reported the frequency of his court appearances prior to his service on the bench as follows:

(a) Federal: At least once a month;

(b) State: At least once a month.

Judge Few reported the percentage of his practice involving civil, criminal, and domestic matters prior to his service on the bench as follows:

(a) Civil: 100%;

(b) Criminal: 0%;

(c) Domestic: 0% (I was appointed in 2 or 3 domestic cases over 11 years).

Judge Few reported the percentage of his practice in trial court prior to his service on the bench as follows:

(a) Jury: 90%;

(b) Non-jury: 10%.

Judge Few provided that, prior to his service on the bench, “The types of cases I handled while practicing law usually called for more than one lawyer. I almost always served as either chief or associate counsel.”

The following is Judge Few’s account of his five most significant litigated matters prior to his service on the bench:

(a) Bagwell v. Nissan, US District Court, District of South Carolina.

This case is significant because I was able to play a major role in enabling a severely disabled quadriplegic, who was otherwise unable to provide for himself financially, to have his basic needs met for the rest of his life;

(b) Shockley v. Hoechst Celanese, 793 F.Supp. 670 (D.S.C. 1992).

This case is significant because an Order I wrote at the request of the district judge was published in the Federal Supplement, and has played a significant role in the development of the law of environmental contamination. The appeal of this case is listed in response to [the significant civil appeals I handled];

(c) Roshto v. Spartanburg Petroleum. This Laurens County case was significant in that my co-counsel and I were able to get a settlement for a hotel (the old Holiday Inn at S.C. 56 and I-26) owner and operator that enabled the business to stay in operation despite the unwillingness of banks to finance the business because of groundwater contamination on the property caused by a gas station on adjoining property;

(d) Shook v. Golden Rule, 1993 WL 18754 (D.S.C. Jan. 7, 1993).This case against a medical insurance provider is significant in that my co-counsel and I were able to get medical insurance payments immediately made for a severely disabled accident victim whose insurance had been denied in violation of the terms of the policy;

(e) Cameron v. General Motors Corp., 158 F.R.D. 581 (1994).This case is significant because of the fact that the U.S. District Judge who presided over it was essentially disqualified by the Fourth Circuit, and the case was transferred to a District Judge from West Virginia. The legal issues were substantial, and eventually involved litigation in West Virginia and Detroit Michigan, in addition to South Carolina.

The following is Judge Few’s account of five civil appeals he has personally handled:

(a) Shockley v. Hoechst Celanese Corp., 996 F.2d 1212 (4th Cir. 1993).

I wrote the brief in this case, but did not personally argue the appeal;

(b) Ehlies v. Shirley, 2000-UP-250;

(c) Phillips v. Southland Life Insurance Co.

This was the first case I ever tried, and the first appeal I ever argued. I don’t have the case number of the unpublished opinion. I lost both the trial and the appeal;

(d) Clark v. Greenville County, 313 S.C. 205, 437 S.E.2d 117 (1993). I don’t think I actually argued this appeal, but I wrote or substantially wrote the briefs;

(e) Kelly v. Para-Chem Southern, Inc., 311 S.C. 223, 428 S.E.2d 703 (1993); I do not have copies of any of the briefs, nor do I know how I could get them.

Judge Few reported that he has not personally handled any criminal appeals.

Judge Few reported that he has held the following judicial office:

“I have served as a Circuit Judge since July 1, 2000.”

Judge Few provided the following list of his most significant orders or opinions:

(a) Dissenting opinion in South Carolina State Ports Authority v Jasper County, 368 S.C. 388, 629 S.E.2d 624 (2006). I was sitting as an Acting Justice by designation;

(b) Foothills Brewing Concern, Inc., et.al. v. City of Greenville, 06-CP-23-7803 (Order dated March 8, 2007). The Order was reversed. The Foothills Brewing Concern v. City of Greenville, 377 S.C. 355, 660 S.E.2d 264 (2008);

(c) Dabbs v. Davis, 01-CP-23-7629 (Order dated March 1, 2004);

(d) Sloan v. Greenville County, 99-CP-23-3022 (Order dated May 7, 2001), 99-CP-23-5004 (Order dated May 7, 2001), 00-CP-23-5354 (Order dated September 14, 2001), aff’d 356 S.C. 531, 590 S.E.2d 338 (Ct. App. 2003);

(e) Pitts v. Jackson National Life Insurance Co., 352 S.C. 319, 574 S.E.2d 502 (Ct. App. 2002).

Judge Few reported the following regarding his employment while serving as a judge:

“I served as Adjunct Professor at the Charleston School of Law in the summer of 2008. I taught one class: Advanced Evidence. It was a part-time position. The dates of the class were every Tuesday and Thursday evening from 6 to 8 from May 27 to July 17, with the exam on July 24. My supervisor was the Associate Dean for Academic Affairs, Nancy Zisk, who no longer holds that position. For this work, I was paid a salary and given a per trip expense reimbursement.”

Judge Few further reported the following regarding unsuccessful candidacies:

“I ran unsuccessfully for the Supreme Court of South Carolina in 2007, 2008 and 2009.”

(9) Judicial Temperament:

The Commission believes that Judge Few’s temperament has been and would continue to be excellent.

(10) Miscellaneous:

Judge Few is not married. He has three children.

Judge Few reported that he was a member of the following bar associations and professional associations:

(a) South Carolina Bar;

(b) Greenville County Bar.

Judge Few provided that he was a member of the following civic, charitable, educational, social, or fraternal organizations:

I serve on the Duke University Alumni Advisory Committee for the upstate. All I do in that capacity is to interview high school seniors who have applied to Duke. I also serve in the unofficial role of President of the Duke Club of the Upstate, which specifically does not involve any fundraising whatsoever. I am simply a contact person for Duke alumni who live in this area, and from time to time I schedule events for Duke alumni in our area.

**The Upstate Citizen’s Committee on Judicial Qualification found Judge Few to be “Well-Qualified” for each of the nine evaluative criteria: constitutional qualifications, ethical fitness, professional and academic ability, character, reputation, physical health, mental stability, experience, and judicial temperament.**

(11) Commission Members’ Comments:

The Commission found that Judge Few’s approach to legal analysis is that of a scholar, which would assist him in discharging his responsibilities as Chief Judge for the Court of Appeals. They noted his professional demeanor at the Public Hearing, the plans he has for advancing the Court of Appeals, and his able service on the Circuit Court for the past nine years.

(12) Conclusion:

The Commission found Judge Few qualified and nominated him for election as Chief Judge on the Court of Appeals.

**Thomas E. Huff**

**Court of Appeals, Chief Judge, Seat 5**

**Commission’s Findings: QUALIFIED, BUT NOT NOMINATED**

(1) Constitutional Qualifications:

Based on the Commission’s investigation, Judge Huff meets the qualifications prescribed by law for judicial service as the Chief Judge for the Court of Appeals.

Judge Huff was born in 1949. He is 60 years old and a resident of North Augusta, South Carolina. Judge Huff provided in his application that he has been a resident of South Carolina for at least the immediate past five years and has been a licensed attorney in South Carolina since 1976.

(2) Ethical Fitness:

The Commission’s investigation did not reveal any evidence of unethical conduct by Judge Huff.

Judge Huff demonstrated an understanding of the Canons of Judicial Conduct and other ethical considerations important to judges, particularly in the areas of ex parte communications, acceptance of gifts and ordinary hospitality, and recusal.

Judge Huff reported that he has not made any campaign expenditures.

Judge Huff testified he has not:

(a) sought or received the pledge of any legislator prior to screening;

(b) sought or been offered a conditional pledge of support by a legislator;

(c) asked third persons to contact members of the General Assembly prior to screening.

Judge Huff testified that he is aware of the Commission’s 48-hour rule regarding the formal and informal release of the Screening Report.

(3) Professional and Academic Ability:

The Commission found Judge Huff to be intelligent and knowledgeable. His performance on the Commission’s practice and procedure questions met expectations.

Judge Huff described his past continuing legal or judicial education during the past five years as follows:

Conference/CLE Name Date

(a) Annual Judicial Conference: 08/04, 8/05, 9/06, 8/07, 8/20/08;

(b) N.C./S.C. Appellate Judge’s Conference 08/22/07;

(c) Mini Summit on Justice for Children 08/23/06;

(d) Hot Topics in Civil Law 06/18/04;

(e) 14th Annual Criminal Practice in S.C. 11/19/04;

(f) S.C. Assoc. for Justice Annual Convention 08/07/09;

(g) S.C. Bar Convention 01/05; 01/06.

Judge Huff reported that he has taught the following law-related courses:

(a) I have lectured at S.C. Bar CLE Programs covering the topics of appellate practice in the areas of criminal law, civil law and matters of appeals before summary courts and civil court;

(b) I participated as a Faculty member for a week long program of training for U.S. Attorneys at the National Advocacy Center in Columbia, South Carolina. The course was entitled Appellate Advocacy, course number 01-01AA1.

Judge Huff reported that he has not published any books and/or articles.

The Commission’s investigation of Judge Huff did not reveal evidence of any founded grievances or criminal allegations made against him. The Commission’s investigation of Judge Huff did not indicate any evidence of a troubled financial status. Judge Huff has handled his financial affairs responsibly.

The Commission also noted that Judge Huff was punctual and attentive in his dealings with the Commission, and the Commission’s investigation did not reveal any problems with his diligence and industry.

(4) Character:

The Commission’s investigation of Judge Huff did not reveal evidence of any founded grievances or criminal allegations made against him. The Commission’s investigation of Judge Huff did not indicate any evidence of a troubled financial status. Judge Huff has handled his financial affairs responsibly.

The Commission also noted that Judge Huff was punctual and attentive in his dealings with the Commission, and the Commission’s investigation did not reveal any problems with his diligence and industry.

(5) Reputation:

Judge Huff reported that his last available Martindale-Hubbell rating was BV.

Judge Huff reported that he has held the following public office:

“I was elected to the South Carolina House of Representatives in 1978. I served from 1978 to 1996. I timely filed all required reports and disclosures.”

(6) Physical Health:

Judge Huff appears to be physically capable of performing the duties of the office he seeks.

(7) Mental Stability:

Judge Huff appears to be mentally capable of performing the duties of the office he seeks.

(8) Experience:

Judge Huff was admitted to the South Carolina Bar in 1976.

He gave the following account of his legal experience since graduation from law school:

“1976-96: I started a solo law practice with an emphasis in domestic law, workers compensation and civil/tort/personal injury matters. In 1990 I was selected by Aiken Electric Cooperative to serve as their corporate counsel. I represented them in the Circuit Court and Supreme Court until I was elected to the Court of Appeals.”

Judge Huff reported the frequency of his court appearances prior to his service on the bench as follows:

(a) Federal: Twice;

(b) State: Twice a month.

Judge Huff reported the percentage of his practice involving civil, criminal, and domestic matters prior to his service on the bench as follows:

(a) Civil: 30%;

(b) Criminal: 15%;

(c) Domestic: 55%.

Judge Huff reported the percentage of his practice in trial court prior to his service on the bench as follows:

(a) Jury: 85%;

(b) Non-jury: 15%.

Judge Huff provided that prior to his service on the bench he most often served as sole counsel.

The following is Judge Huff’s account of his five most significant litigated matters prior to his service on the bench:

(a) City of Aiken v. Aiken Electric Co-operative, Inc., 305 S.C. 466, 409 S.E. 2d 403. This case addressed the constitutional and statutory implications of territorial assignment of service area and subsequent municipal annexations into the co-ops assigned service territory.

(b) Army Navy Bingo, Garrison No. 2196 v. Plowden, 281 S.C. 226, 314 S.E. 2d 339, S.C. This case challenged the imposition of a constitutional three year residency requirement to obtain or renew an operator’s license which would constitute a taking of the parties business and ability to earn a living.

(c) Barnes v. Barnes, 276 S.C. 519, 280 S.E. 2d 538, S.C. This case addressed the statutory interpretation of 20-3-10(5) 1976 which addresses the requirement of separation without co-habitation before a divorce is permitted. The implications of the decision was not to permit parties to remain under the same roof but in different bedrooms and establish the necessary separation factor

(d) Berry v. Ianuario, 286 S.C. 522, 335 S. E. 2d 250. This case touched on the issue of waiving adoptive home studies.

(e) Nguyen v. Uniflex Corp., 312 S.C. 417, 440 S.E. 2d 887. This litigation touched on the issues of national standards for storing toxic materials, municipal codes and national and regional building codes. There was also an issue of storage of toxic materials adjacent to leased premises of the plaintiff.

The following is Judge Huff’s account of the civil appeals he has personally handled:

“By way of explanation and response to this question I wish to inform the Commission that I have served on the Court of Appeals for the last thirteen years and my Law office was closed in 1996. I deeply regret that I am unable to provide copies of any briefs due the lengthy lapse of time. I would draw the Commissions attention to the case cited above by way of a response to this question.”

The following is Judge Huff’s account of the criminal appeals he has personally handled:

“I do not have access to my files anymore in that my office has been closed since 1996 when I was elected to the Court of Appeals. I did represent a number of criminal defendants during my twenty years of practice. The cases ranged from misdemeanors, assault and battery with intent to kill, kidnapping, domestic violence, possession with intent to distribute, failure to stop for a blue light, burglary, breaking and entering, presenting and pointing, criminal sexual conduct, DUI involving death, possession of crack cocaine, ABHAN and trafficking”

Judge Huff reported that he has held the following judicial office:

“South Carolina Court of Appeals, elected 1996. This court has statewide jurisdiction over all courts, agencies, commissions and administrative law courts and serves to correct errors of law. We can hear all appeals except those matters exclusively reserved to the Supreme Court.”

Judge Huff provided the following list of his most significant orders or opinions:

(a) Mozingo & Wallace Architects, LLP v. Patricia Grand, 379 S.C. 478, 666 S.E. 2d 267 (Ct. App. 2008), cert. denied (June 6, 2009);

(b) Cox v. Bellsouth Telecommunications, 356 S.C. 468, 589 S.E. 2d 766 (Ct. App. 2003) cert. denied (Apr 07,2005);

(c) Straight v. Goss, Op. No. 4532 (S.C. Ct. App. Filed April 16, 2009) (Shearouse Adv. Sh. No. 17 at 71);

(d) State v. Paige, 375 S.C. 643, 654 S.E. 2d 300 (Ct. App. 2007) (cert. denied 3/5/09;

(e) State v. Bennett, 375 S.C. 165, 650 S.E. 2d 490 (Ct. App. 2007) (cited by Sup Ct. in State v. McGrier, Op. No. 26489 ( S.C. Sup. Ct. refilled June 23, 2008) (Shearouse Adv. Sh. No. 26 at 24).

Judge Huff further reported the following regarding an unsuccessful candidacy:

“I ran for a seat on the Court of Appeals in 1993, but lost in a two-candidate race by seven votes.”

(9) Judicial Temperament:

The Commission believes that Judge Huff’s temperament has been and would continue to be excellent.

(10) Miscellaneous:

Judge Huff is married to Patricia Dale Huff. He has one child.

Judge Huff reported that he was a member of the following bar associations and professional associations:

(a) South Carolina Bar;

(b) Aiken County Bar.

Judge Huff further reported:

“Over the past five years I have served on the Curtis Baptist School Board. During my service I served two terms as the Board Chairman and two terms as the Vice Chairman. I also served on the Finance committee primarily to assist in the preparation of budgets and make presentations to the full board concerning budgetary matters. The school had an enrollment from 180 to 300 students in grades 1 thru 12.”

**The Midlands Citizens Committee found Judge Huff “Well-Qualified” for each of the nine evaluative criteria: constitutional qualifications, ethical fitness, professional and academic ability, character, reputation, physical health, mental stability, experience, and judicial temperament. They also stated, “Judge Huff is an asset to our State and the committee truly appreciates his honorable service to our state on the Court of Appeals. We believe he is eminently qualified to be the Chief Judge of the Court of Appeals and we are confident he would continue his service to the Court of Appeals and our state in a most outstanding manner.”**

(11) Commission Members’ Comments:

The Commission commented that, as the most senior judge on the Court of Appeals, Judge Huff has a good grasp of the appellate process. They noted that he is known as a hard worker and a stabilizing influence for the Court.

(12) Conclusion:

The Commission found Judge Huff qualified, but not nominated, to serve as Chief Judge on the Court of Appeals.

**Alison Renee Lee**

**Court of Appeals, Chief Judge, Seat 5**

**Commission’s Findings: QUALIFIED, BUT NOT NOMINATED**

(1) Constitutional Qualifications:

Based on the Commission’s investigation, Judge Lee meets the qualifications prescribed by law for judicial service as the Chief Judge for the Court of Appeals.

Judge Lee was born in 1958. She is 51 years old and a resident of Columbia, South Carolina. Judge Lee provided in her application that she has been a resident of South Carolina for at least the immediate past five years and has been a licensed attorney in South Carolina since 1984. She was also admitted to the Texas Bar in 1982 and to the Louisiana Bar in 1983.

(2) Ethical Fitness:

The Commission’s investigation did not reveal any evidence of unethical conduct by Judge Lee.

Judge Lee demonstrated an understanding of the Canons of Judicial Conduct and other ethical considerations important to judges, particularly in the areas of ex parte communications, acceptance of gifts and ordinary hospitality, and recusal.

Judge Lee reported that she has not made any campaign expenditures.

Judge Lee testified she has not:

(a) sought or received the pledge of any legislator prior to screening;

(b) sought or been offered a conditional pledge of support by a legislator;

(c) asked third persons to contact members of the General Assembly prior to screening.

Judge Lee testified that she is aware of the Commission’s 48-hour rule regarding the formal and informal release of the Screening Report.

(3) Professional and Academic Ability:

The Commission found Judge Lee to be intelligent and knowledgeable. Her performance on the Commission’s practice and procedure questions met expectations.

Judge Lee described her past continuing legal or judicial education during the past five years as follows:

Conference/CLE Name Date

(a) Annual Criminal Law Update 01/23/04;

(b) Annual Civil Law Update 01/23/04;

(c) Matthew J. Perry: The Man, 04/23/04;

(d) S.C. Circuit Judges Conference 05/05/04;

(e) S.C. Judicial Conference 08/19/04;

(f) Annual Civil Law Update 01/21/05;

(g) Annual Criminal law Update 01/21/05;

(h) Circuit Judges Conference 05/11/05;

(i) Annual Judicial Conference 08/24/05;

(j) ABCs of Effective & Ethical Trial Practice 10/14/05;

(k) Annual Civil Law Update 01/28/06;

(l) Annual Criminal Law Update 01/28/06;

(m) Circuit Judges’ Conference 05/10/06

(n) Annual Judicial Conference 08/23/06;

(o) Annual Civil Law Update 01/21/07;

(p) Annual Criminal Law Update 01/21/07;

(q) Circuit Judges’ Conference 05/14/07;

(r) Annual Civil Law Update 01/25/08;

(s) Annual Criminal Law Update 01/25/08;

(t) Annual Judicial Conference 08/20/08;

(u) American Bar Association Meeting 08/2008;

(v) Lunch and Learn 10/29/08;

(w) SCDTAA 11/13/08;

(x) Circuit Judges Conference 05/09.

Judge Lee reported that she has taught the following law-related courses:

(a) JCLE - Basic Elements of Proof in the Family Court (August 1985) Topic: Settling the Family Court Record on Appeal;

(b) Basic Federal Court Practice (September 1985) Topic: Pretrial Orders, Sanctions & Local Rules;

(c) Drafting Criminal Laws under the Sentencing Classification Act (November 1993);

(d) Bridge the Gap (May 1996, March 1997, May 1997, March 1998, May 1998) Topic: Practice Tips for the Administrative Law Judge Division;

(e) 1996 That Was the Year That Was (January 1997) Topic: 1996 Update for the Administrative Law Judge Division;

(f) Rules, Rules, Rules: S.C. Practice & Procedure Update (March 1998) Topic: Rules of the Administrative Law Judge Division;

(g) South Carolina Woman Advocate: Moving into the Millennium (May 1998);

(h) Tips from the Bench III (December 2002);

(i) Women Lawyers in the New Millennium (April 2003) Topic: Ethics – Circuit Court;

(j) S.C. Black Lawyers Summit & Retreat (October 2004) Topic: S.C. Judiciary on Civility & Ethics (panel discussion);

(k) ABC’s of Effective and Ethical Practice (October 2005) Topic: Enhancing Persuasion in Trial: Civil and Criminal Advocacy in S.C. (panel discussion);

(l) South Carolina Black Lawyers Summit & Retreat (September 2006) Topic: Tips from the Bench (Panel discussion);

(m) South Carolina Municipal Association (December 2006) Topic: Ethics – Circuit Court.

Judge Lee reported that she has not published any books or articles.

(4) Character:

The Commission’s investigation of Judge Lee did not reveal evidence of any founded grievances or criminal allegations made against her. The Commission’s investigation of Judge Lee did not indicate any evidence of a troubled financial status. Judge Lee has handled her financial affairs responsibly.

The Commission also noted that Judge Lee was punctual and attentive in her dealings with the Commission, and the Commission’s investigation did not reveal any problems with her diligence and industry.

(5) Reputation:

Judge Lee reported that she is not rated by Martindale-Hubbell.

(6) Physical Health:

Judge Lee appears to be physically capable of performing the duties of the office she seeks.

(7) Mental Stability:

Judge Lee appears to be mentally capable of performing the duties of the office she seeks.

(8) Experience:

Judge Lee was admitted to the South Carolina Bar in 1984.

She gave the following account of her legal experience since graduation from law school:

(a) 1982-83 Law Clerk, Honorable Israel M. Augustine, Jr., Louisiana Fourth Circuit Court of Appeals.

(b) 1983-84 Law Clerk, Honorable C. Tolbert Goolsby, Jr., South Carolina Court of Appeals.

(c) 1984-89 Associate, McNair Law Firm, P.A., primarily litigation in contract or consumer related issues. Last two years practice labor and employment related litigation.

(d) 1989-94 Staff Counsel, S.C. Legislative Council, drafting legislation and amendments for members of the General Assembly in the areas of transportation, crime, corrections and prisons, and education.

(e) 1994-1999. Administrative Law Judge presiding over administrative hearing relating to insurance, environmental permitting, alcoholic beverages, wages, taxes, video poker, bingo, appeals from occupational licensing boards, and hearings on regulations promulgated by certain state agencies.

(f) 1999-present. Circuit Court Judge. Court of general jurisdiction in criminal and civil matters. Appellate jurisdiction over municipal, magistrate, and probate cases.

Judge Lee reported the frequency of her court appearances prior to her service on the bench as follows:

(a) federal: (1984-89) 90%;

(b) state: 10%.

Judge Lee reported the percentage of her practice involving civil, criminal, and domestic matters prior to her service on the bench as follows:

Years 1984-89

(a) civil: 80%;

(b) criminal: 20%;

(c) domestic: handled 2-3 appointed cases.

Judge Lee reported the percentage of her practice in trial court prior to her service on the bench as follows:

Years 1984-89

(a) jury: 10% cases were resolved by motion or through settlement;

(b) non-jury:[not answered].

Judge Lee provided that, prior to her service on the bench, she most often served as associate counsel on cases that were tried.

The following is Judge Lee’s account of her four most significant litigated matters prior to her service on the bench:

(a) Atkinson v. Citicorp Acceptance Co. (Federal district court) – case decided on summary judgment motion involving the Fair Debt Collection Act, then a new federal statute.

(b) McClain v. Westinghouse (Federal district court) – employment law case involving sex discrimination, sex harassment, equal pay, as well as other employment claims. Case decided on summary judgment.

(c) State of South Carolina v. Norris Stroman (state criminal case) – defendant (with limited intelligence) charged with murder and allegedly confessed. Jury acquitted.

(d) Valerie Smith v. Kroger (Federal district court) – either a slander or malicious prosecution case resulting from shoplifting.

The following is Judge Lee’s account of four civil appeals she has personally handled:

(a) Purdie v. Smalls, 293 S.C. 216, 359 S.E.2d 306 (Ct. App. 1987);

(b) Hooten v. Carolina Treatment Center, Inc. 200 S.C. 37, 386 S.E.2d 287 (Ct. App. 1989). I was not the lead attorney;

(c) Condon v. Best View Cablevision, Inc., 292 S.C. 117, 355 S.E.2d 7 (Ct. App. 1987). I was not the lead attorney;

(d) Davis v. U.S. Steel Corp., 779 F.2d 209 (4th Cir. 1985) on brief only.

The following is Judge Lee’s account of the criminal appeals she has personally handled:

“I did not handle any criminal appeals while in private practice. However, as a circuit court judge I have presided over appeals from magistrate and municipal court involving criminal matters.”

Judge Lee reported that she has held the following judicial offices:

Elected by the General Assembly in February 1994 to the office of Administrative Law Judge which is a quasi-judicial function within the executive branch of government. Jurisdiction is limited to fact finding within the context of administrative hearings involving taxes, licensing, permitting and rate-making. Act as an appellate body in matters involving occupational licensing and foster care licensing, among others. Conduct public hearings and decide the reasonableness and need for regulations promulgated by certain state agencies.

Elected by the General Assembly in February 1999 to Circuit Court. Re-elected in February 2002 and February 2008. Court of general jurisdiction covering civil and criminal matters. Also appellate jurisdiction over municipal, magistrate, and probate cases.

Judge Lee provided the following list of her most significant orders or opinions:

(a) Ward v. South Carolina, 98-CP-40-4069, reversed 538 S.E.2d 245 (S.C. 2000).

Ward, a federal retiree, filed suit against the state seeking to have declared unconstitutional statutes enacted providing state retirees a “rebate” on income taxes in response to Davis v. Michigan. The State filed a motion to dismiss the lawsuit which was granted on the basis that Ward failed to exhaust her administrative remedies before the Department of Revenue and the Administrative Law Judge Division. The Supreme Court reversed the decision stating that exhaustion of remedies was not required when the sole issue for determination involves the constitutionality of a statute. Neither the Department of Revenue nor the ALJD has jurisdiction to determine the constitutionality of a statute.

(b) Collins Holding Co. v. Defibaugh, Ct. App. reversed on one issue, 2007 WL 1148140.

Collins Holding Co. filed suit seeking damages against a competitor for a variety of claims. The issue was whether the Defendant engaged in unfair trade practices for allowing certain video game machines that employed a “reflexive payout” feature. A number of other issues were raised by Collins on appeal.

(c) Sloan v. Greenville County, et al., 99-CP-23-4464.

Mr. Sloan sued Greenville County seeking to declare its action unlawful in connection with the procured construction of the family Court Building Expansion. The County sought dismissal of the lawsuit claiming Mr. Sloan did not have standing to bring the lawsuit. The decision found that Sloan had standing to bring the action against the County as a taxpayer when the legislative acts sought to be enjoined are unlawful.

(d) Jordan, et al v. Holt, et al., 96-CP-26-3792, reversed by Ct. App. ; Ct. App. reversed by S. Ct., 362 S.C. 201, 608 S.E.2d 129 (2005).

This was a non-jury trial in partners in a failed restaurant venture sought dissolution of the partnership, an accounting of the assets and claims for damages from the operation of the business. The trial lasted one week and involved voluminous documents, checks, records and photographs.

(e) Cooke v. Palmetto Health Alliance, affirmed by Ct. App., 367 S.C. 167, 624 S.E.2d 439 (Ct. App. 2005).

Workers’ Compensation case in which Mr. Cooke sought to receive benefits under the Act. The legal issue was whether Cooke was a statutory employee.

Judge Lee further reported the following regarding unsuccessful candidacies:

Candidate for Circuit Court At Large Seat 10. Election in April 1997, withdrew two days before the election. Seat won by James R. Barber, III. Also candidate for Circuit Court At Large, Seats 1 and 7. Withdrew candidacy when Commission nominated me as a candidate for Seat 11 in February 1999.

Candidate for Court of Appeals, Seat 1, Seat 3, and Seat 6. Elections occurred in 2003 and 2004. In all cases I was found qualified by the Judicial Merit Selection Commission, but I was not nominated. In Spring 2008 I was a candidate for the Court of Appeals Seat 3. I was nominated by the Commission but withdrew my candidacy before the election.

(9) Judicial Temperament:

The Commission believes that Judge Lee’s temperament has been and would continue to be excellent.

(10) Miscellaneous:

Judge Lee is married to Kenzil Franklin Summey. She has two children.

Judge Lee reported that she was a member of the following bar associations and professional associations:

(a) American Bar Association (1985-90; 2006 – present);

(b) South Carolina Bar Association;

(c) South Carolina Women Lawyers Association;

(d) Richland County Bar Association;

(e) Young Lawyers Division representative to the Committee on Continuing Legal Education (July 1987-June 1988);

(f) Associate Commissioner, Board of Grievances & Discipline (1987-89);

(g) National Conference of State Trial Judges Delegate (2007 to present).

Judge Lee provided that she was a member of the following civic, charitable, educational, social, or fraternal organizations:

(a) Columbia Chapter of The Links, Inc. (1987 - present)

President 1994-98

Vice President 1993-94

Corresponding Secretary 1990-93;

(b) Columbia Chapter, Jack and Jill of America, Inc. (1992 - 2009)

Parliamentarian 1995-97, 2001-2007;

(c) St. Peter's Catholic School Board (1993-97)

Chairperson 1995-96;

(d) St. Peter’s Catholic Church Parish Pastoral Council (1998-2001);

(e) Honored by the S.C. Chapter of the National Association of Bench and Bar Spouses in April 1999;

(f) Leadership South Carolina, Class of 1999.

**The Midlands Citizens Committee found Judge Lee “Well-Qualified” for each of the nine evaluative criteria: constitutional qualifications, ethical fitness, professional and academic ability, character, reputation, physical health, mental stability, experience, and judicial temperament. They also reported the following summary regarding Judge Lee: “Judge Lee is truly an asset to our state’s judiciary. Our committee sincerely believes that she is most eminently qualified to be the Chief Judge of the Court of Appeals and we are confident she would continue to serve our state in a most outstanding manner.”**

(11) Commission Members’ Comments:

The Commission commented that Judge Lee’s intellect and her understanding of the “team” concept would serve her well as Chief Judge on the Court of Appeals. They noted her good reputation for the past ten years as a Circuit Court Judge.

(12) Conclusion:

The Commission found Judge Lee qualified, but not nominated, to serve as Chief Judge on the Court of Appeals.

**Daniel F. Pieper**

**Court of Appeals, Chief Judge, Seat 5**

**Commission’s Findings: QUALIFIED AND NOMINATED**

(1) Constitutional Qualifications:

Based on the Commission’s investigation, Judge Pieper meets the qualifications prescribed by law for judicial service as the Chief Judge for the Court of Appeals.

Judge Pieper was born in 1961. He is 48 years old and a resident of Hanahan, South Carolina. Judge Pieper provided in his application that he has been a resident of South Carolina for at least the immediate past five years and has been a licensed attorney in South Carolina since 1985.

(2) Ethical Fitness:

The Commission’s investigation did not reveal any evidence of unethical conduct by Judge Pieper.

Judge Pieper demonstrated an understanding of the Canons of Judicial Conduct and other ethical considerations important to judges, particularly in the areas of ex parte communications, acceptance of gifts and ordinary hospitality, and recusal.

Judge Pieper reported that he has not made any campaign expenditures.

Judge Pieper testified he has not:

(a) sought or received the pledge of any legislator prior to screening;

(b) sought or been offered a conditional pledge of support by a legislator;

(c) asked third persons to contact members of the General Assembly prior to screening.

Judge Pieper testified that he is aware of the Commission’s 48-hour rule regarding the formal and informal release of the Screening Report.

(3) Professional and Academic Ability:

The Commission found Judge Pieper to be intelligent and knowledgeable. His performance on the Commission’s practice and procedure questions met expectations.

Judge Pieper described his past continuing legal or judicial education during the past five years as follows:

Conference/ CLE Name Date

(a) Civil Law Update 01/23/2009;

(b) Criminal Law Update 01/23/2009;

(c) Judicial Conference 08/20/2008;

(d) Tips from the Bench 02/15/2008;

(e) Criminal Law Update 01/25/2008;

(f) Law Clerk and Staff Code of Conduct Seminar 12/19/2007;

(g) Judicial Conference 08/22/2007;

(h) Criminal Law Update 01/26/2007;

(i) Civil Law Update 01/26/2007;

(j) Judicial Conference 08/23/2006;

(k) Criminal Law Update 01/27/2006;

(l) Civil Law Update 01/27/2006;

(m) Tips from the Bench 12/09/2005;

(n) Judicial Conference 08/24/2005;

(o) Criminal Law Update 01/21/2005;

(p) Civil Law Update 01/21/2005;

(q) Seminar for Chief Judges 12/10/2004;

(r) Judicial Conference 08/19/2004;

(s) Criminal Law Update 01/23/2004;

(t) Civil Law Update 01/23/2004.

Judge Pieper reported that he has taught the following law-related courses:

(a) I have lectured on the law before the Masters-in-Equity regarding civil procedure.

(b) I also have made presentations to the Magistrates and Municipal Judges on Judicial Ethics.

(c) I prepared a “Tips from the Bench” seminar for a few years for the S.C. Bar that covers every level of court in S.C. I have been asked to do it again in 2010 but I have not yet committed to it.

(d) In addition, I am an adjunct professor of law at the Charleston School of Law. I have taught courses in Criminal Law, Advanced Criminal Law and Equity.

(e) I have also spoken on Ethics during the same law school’s professionalism series.

Judge Pieper reported that he has not published any books or articles.

(4) Character:

The Commission’s investigation of Judge Pieper did not reveal evidence of any founded grievances or criminal allegations made against him. The Commission’s investigation of Judge Pieper did not indicate any evidence of a troubled financial status. Judge Pieper has handled his financial affairs responsibly.

The Commission also noted that Judge Pieper was punctual and attentive in his dealings with the Commission, and the Commission’s investigation did not reveal any problems with his diligence and industry.

(5) Reputation:

Judge Pieper reported the following regarding his Martindale-Hubbell rating, “To my knowledge, I am not listed, reason unknown.”

(6) Physical Health:

Judge Pieper appears to be physically capable of performing the duties of the office he seeks.

(7) Mental Stability:

Judge Pieper appears to be mentally capable of performing the duties of the office he seeks.

(8) Experience:

Judge Pieper was admitted to the South Carolina Bar in 1985.

He gave the following account of his legal experience since graduation from law school:

March 1985 - August 1985; Lawclerk, U.S. District Court, for United States Magistrate Judge Robert Carr. I was responsible for researching the law and writing reports and recommendations for disposition of various cases such as employment and civil rights cases, social security, habeas corpus and other prisoner litigation, and all other civil cases referred to the office. Also, I attended and prepared for all criminal proceedings before Judge Carr. In August, I left to attend N.Y.U.

Attorney - In summer 1986, for a short period after I returned from N.Y.U., I worked as an attorney with the Joye law firm handling foreclosures, estate planning and civil matters.

Fall 1986 - Fall 1988; Senior Lawclerk, U.S. District Court for Judge Sol Blatt, Jr. I worked on a wide variety of civil and criminal matters involving issues of statutory and constitutional law, including habeas corpus review of decisions of the S.C. Supreme Court. Essentially, I received training and exposure to all aspects of trial, including complex litigation.

Private Practice - August 1988 - December 1990. During part of this time, I was associated with a lawyer under the name of Pieper & Stokes; six months thereafter, we moved to another office owned by another lawyer but chose to operate as separate entities. Character of practice - real estate, probate, estate planning and general civil matters.

Counsel, U.S. District Court, Summer 1990 – December 1990. Career Clerk December 1990 -Summer 1993; part-time Summer 1993- Summer 1995; returned to U.S. District Court at request of Judge Blatt, because of my class action experience, to assist with the complicated bankruptcy class action for Patriots Point. After the case was completed, I was asked to stay in a career position. [During the first six months of this period, I was still in private practice time above because I was serving in a special “of counsel” sort of position to the Court for the bankruptcy proceedings]. From Summer 1993 - Summer 1995, I assisted the court one day a week since I was appointed Master-in-Equity.

April 1989 - October 1991, part-time Berkeley County Magistrate (I worked at night). Presided over all cases assigned to my office. Eventually, I was appointed Chief Magistrate with administrative oversight of sixteen offices and the budget for each office.

June 1993 - June 1996; Berkeley County Master-in-Equity and Special Circuit Judge. Duties - I presided over all circuit court nonjury trials and proceedings referred to my office for disposition; in addition, as Special Circuit Judge, I presided over most pretrial proceedings and motions in civil jury and nonjury cases; minor settlements; civil or criminal appeals from magistrate, municipal and probate courts, as well as judicial review of state agency cases such as workers’ compensation appeals, and grand jury proceedings. I gained a wide variety of circuit court judicial experience.

June 1996 – October 2007. Resident Circuit Judge, Ninth Judicial Circuit; presided over all civil and criminal matters and appeals within the jurisdiction of the circuit court. I have also been assigned as an Acting Supreme Court Justice. I completed eleven years as circuit judge.

November 2007 – present; Court of Appeals Judge, Seat 7. As previously indicated, I actually was performing the duties of circuit judge and appellate judge for a few months before I started in November 2007. As an appellate judge, I preside over cases with a panel of judges, or with the court en banc, on a variety of civil, domestic, criminal and administrative matters on appeal from the lower courts and administrative agencies.

Judge Pieper reported the percentage of his practice involving civil, criminal, and domestic matters prior to his service on the bench as follows:

(a) civil: 90%;

(b) criminal: 5%;

(c) domestic: 5%.

Judge Pieper reported the percentage of his practice in trial court prior to his service on the bench as follows:

Judge Pieper provided that prior to his service on the bench he most often served as associate counsel.

The following is Judge Pieper’s account of his most significant litigated matters prior to his service on the bench:

“I handled tax and estate planning matters as well as collection and foreclosure proceedings which were routine and did not involve significant litigation.”

Judge Pieper reported that he has not personally handled any civil or criminal appeals.

Judge Pieper reported that he has held the following judicial offices:

April 1989 - October 1991, part-time Berkeley County Magistrate; appointed position; civil jurisdiction of $2500 and limited criminal jurisdiction depending on the statute involved. Presided over all cases assigned to my office. Eventually, I was appointed Chief Magistrate with administrative responsibility for sixteen offices.

June 1993 - June 1996; Berkeley County Master-in-Equity and Special Circuit Judge; appointed position. Duties - I presided over all circuit court nonjury trials and proceedings referred to my office for disposition; in addition, as Special Circuit Judge, I presided over most pretrial proceedings and motions in civil jury and nonjury cases; minor settlements; civil or criminal appeals from magistrate, municipal and probate courts, as well as judicial review of state agency cases such as workers’ compensation appeals, and grand jury proceedings. I gained a wide variety of circuit court judicial experience.

June 1996 – October 2007. Resident Circuit Judge, Ninth Judicial Circuit; elected by the General Assembly. Presided over all civil and criminal matters and appeals within the jurisdiction of the circuit court. I was also assigned on occasion to serve as an acting Supreme Court Justice.

November 2007 to present; Court of Appeals Judge, Seat 7. As previously indicated, I actually was performing the duties of circuit judge and appellate judge for a few months before I started in November 2007. As an appellate judge, I preside over cases with a panel of judges, or with the court en banc, on a variety of civil, domestic, criminal and administrative matters on appeal from the lower courts and administrative agencies.

Judge Pieper provided the following list of his most significant orders or opinions:

(a) Mr. T. v. Mrs. T., 378 S.C. 127, 662 S.E.2d 413 (2008). This case involved a very significant issue involving the law of equity, the rules of civil procedure, and preclusion principles. This case has been brought up at conferences as being significant as it works through prior precedent to address a gap in the law. In this case, a few years after divorce, a father alleged he learned by DNA testing that he was not the father of the children and contended it was inequitable to make him continue to pay child support. Certiorari was denied by the S.C. Supreme Court on Feb. 20, 2009.

(b) State v. Christopher Pittman, 373 S.C. 527, 647 S.E.2d 144 (2007). This was an interesting but tragic case involving a 12 year old who killed his two grandparents. The primary defense was a “Zoloft” defense. The case was transferred from family court and received world-wide attention and coverage as it raised many issues relating to the juvenile justice system and sentencing. The S.C. Supreme Court affirmed the decision and the U.S. Supreme Court declined to accept it for review.

(c) State v. Harvin, 345 S.C. 190, 547 SE2d 497 (2001); murder/armed robbery case. This case involved a novel issue of the applicability of New York law to a statement given by the defendant while detained in that state on an unrelated charge. Affirmed.

(d) State v. Reid, 2009 WL 1851327 (Ct App. June 25, 2009); attempted criminal sexual conduct case. This case deals with contemporary issues in the criminal justice system as it involves the use of an internet chat room. The case focuses upon the primarily undeveloped law in the area of attempted crimes.

(e) Capital City Insurance Company v. BP Staff, Inc., 382 S.C. 92, 674 S.E.2d 524 (Ct. App. 2009). I think this case is a good case involving the doctrine of exhaustion of administrative remedies and the interplay between a pending, related administrative proceeding and an ongoing circuit court case.

Judge Pieper reported the following regarding his employment while serving as a judge:

“Adjunct Professor of Law, Charleston School of Law, 2005 to present. I teach criminal law, advanced criminal law, as well as equity and equitable Remedies. The Dean of Academic Affairs is my supervisor.”

Judge Pieper further reported the following regarding an unsuccessful candidacy:

“I previously ran for the Court of Appeals in Spring 2004. The Commission found me qualified and nominated me for consideration by the General Assembly; however, I withdrew my name from consideration.”

(9) Judicial Temperament:

The Commission believes that Judge Pieper’s temperament has been and would continue to be excellent.

(10) Miscellaneous:

Judge Pieper is not married. He does not have any children.

Judge Pieper reported that he was a member of the following bar associations and professional associations:

(a) S.C. Bar Association;

(b) Honorary member Charleston and Berkeley County Bar Association.

Judge Pieper provided that he was a member of the following civic, charitable, educational, social, or fraternal organizations:

(a) As indicated, I involve myself with educational organizations and I am on advisory boards at the Charleston School of Law and the College of Charleston. Because of my judicial position, I have generally avoided other civic activities so that I would not run afoul of the judicial code prohibition on judges in regard to fundraising activities. I have not listed anything previously mentioned.

(b) By appointment of the Supreme Court, I do serve as a member of the Commission on CLE and Specialization. This commission oversees the certification of members of the Bar to specialty practice areas and also certifies courses which qualify for continuing legal education. We have recently been designated by the Supreme Court to oversee the new lawyer mentoring program.

Judge Pieper further reported:

I think one of my strongest points is that I have been involved in so many different levels of the court system. My work ethic is well-known by the Bar. Having been a magistrate, master-in-equity, special circuit judge, circuit judge, court of appeals judge, as well as acting Supreme Court Justice, I have a great appreciation for the types of matters before these courts that would be useful as chief judge of the Court of Appeals. I also worked in the federal court system for a few years. As chief magistrate, I was responsible for administrative and budgetary oversight of sixteen different magistrate offices and the personnel associated with each office. I immediately set out to come up with forms that made judicial tasks much easier for everyone involved to understand and to make sure everything was covered. I worked hard to find office locations convenient to the public. We also set out to streamline the system and make it more efficient, including the creation of a central traffic court, which I am told is very successful.

I have always been innovative, diligent and imaginative. I am also technology oriented in the operation of my office. I feel these qualities are very useful as the judiciary strives to adjust to increasing caseloads. I feel that I have a broad working knowledge of the court system and courtroom, having spent a great many years presiding over court. As an appeals court judge, I was successful in requesting and getting our courtrooms wired for internet access. I have made other suggestions adopted by the chief judge. I wish to experiment with videoconferencing at the appellate level, and have a great interest in e-filing for the benefit of the public and the court. I have strong writing and communication skills, and have offered my colleagues my private thoughts since I have been on the court; several of my colleagues have thanked me for the extra time and attention I give to the area of legal writing.

As a circuit judge, I was exposed to a wide range of matters, including hundreds of appeals from the magistrate, municipal and probate courts, as well as from administrative agencies. We generally drafted and produced most of our substantive orders and I think this extensive legal writing experience is very useful as an appellate judge. I was also assigned as chief administrative judge on numerous occasions and worked very diligently and closely with clerk of court personnel to achieve various objectives. I helped the clerk of court reduce costs and improve efficiency. All of my judicial experience would be invaluable as it relates to the disposition of matters on the appellate court.

In addition, my passion for teaching at the law school reflects my devotion to the academic side of the law, which I hope will lend itself well to the appellate process. I believe the chief judge should be a dedicated and devoted individual with a passion for the law and the court. As previously indicated, by appointment of the Supreme Court, I also serve as a member of the Commission on CLE and Specialization. This commission oversees the certification of members of the Bar to specialty practice areas and also certifies courses which qualify for continuing legal education. We recently have been designated by the Supreme Court to oversee the new lawyer mentoring program. The duties of this commission closely parallel my views about quality, skills, and dedication to the study of law. I am eager to work in the mentoring program as we implement ways to assist new lawyers in the practice of law as a profession.

Finally, throughout my entire career, I have always realized that there is room for improvement and the ability to grow as a judge. I am a much different judge than I was in my earlier years. I have tried to adjust and refine my skills as I have received feedback over the years and as I have learned new techniques and approaches from conferences, colleagues, as well as judicial evaluations. I am not afraid of criticism and I am the first person to admit error if error occurs, or if something can be done better. When I last ran for the Court of Appeals, I was humbled by the finding of the Lowcountry Citizen’s Committee that I was “eminently qualified and a most highly regarded candidate,” as well as the finding by the Judicial Merit Selection Commission that I have “raised the bar in this State on outstanding judicial temperament”. These findings motivated me to work even harder since my last election and I hope to continue to work hard to continue improving as a judge.

As for being chief judge if elected, I think my ability to achieve and my grasp of the future of the court system would serve us well. Fortunately, we are blessed with a wonderful clerk of court and chief staff attorney, both of whom are doing a great job. They have done a great job in hiring excellent staff and the role of chief judge is much easier because of this fact. Further, the current chief judge will leave the court in excellent shape through her involvement and guidance over many years. I see my role more as an idea person, administrator and problem solver. I tend to reach out to capable individuals like those persons I have mentioned in order to achieve success in anything we may attempt together as an institution. Further, I would solicit the participation, support and comments of all of my colleagues, staff, and the Chief Justice before attempting any changes to make sure I have considered all important aspects of an issue.

**The Lowcountry Citizen’s Committee on Judicial Qualification found Judge Pieper “Well-Qualified” for all nine evaluative criteria: constitutional qualifications, ethical fitness, professional and academic ability, character, reputation, physical health, mental stability, experience, and judicial temperament.**

(11) Commission Members’ Comments:

The Commission commented that Judge Pieper’s outstanding grasp of legal issues was demonstrated by his stellar performance on the Commission’s Practice and Procedure test, which would serve him well as Chief Judge of the Court of Appeals. They noted that his enthusiasm, his two years of service on the Court of Appeals, as well as his total of 20 years service on the bench and his understanding of how technology can benefit the courtroom will assist the court in moving forward.

(12) Conclusion:

The Commission found Judge Pieper qualified and nominated him for election as Chief Judge on the Court of Appeals.

**Paul E. Short, Jr.**

**Court of Appeals, Chief Judge, Seat 5**

**Commission’s Findings: QUALIFIED AND NOMINATED**

(1) Constitutional Qualifications:

Based on the Commission’s investigation, Judge Short meets the qualifications prescribed by law for judicial service as the Chief Judge for the Court of Appeals.

Judge Short was born in 1947. He is 63 years old and a resident of Chester, South Carolina. Judge Short provided in his application that he has been a resident of South Carolina for at least the immediate past five years and has been a licensed attorney in South Carolina since 1971.

(2) Ethical Fitness:

The Commission’s investigation did not reveal any evidence of unethical conduct by Judge Short.

Judge Short demonstrated an understanding of the Canons of Judicial Conduct and other ethical considerations important to judges, particularly in the areas of ex parte communications, acceptance of gifts and ordinary hospitality, and recusal.

Judge Short reported that he has made $174.18 in campaign expenditures for postage and stationery.

Judge Short testified he has not:

(a) sought or received the pledge of any legislator prior to screening;

(b) sought or been offered a conditional pledge of support by a legislator;

(c) asked third persons to contact members of the General Assembly prior to screening.

Judge Short testified that he is aware of the Commission’s 48-hour rule regarding the formal and informal release of the Screening Report.

(3) Professional and Academic Ability:

The Commission found Judge Short to be intelligent and knowledgeable. His performance on the Commission’s practice and procedure questions met expectations.

Judge Short described his past continuing legal or judicial education during the past five years as follows:

Conference/CLE Name Date

(a) 4th Annual Judicial Symposium 07/11/08;

(b) Judicial Conference 08/20/08;

(c) Post-Conviction Relief Seminar 12/05/08;

(d) 7th Annual Civil Law Update 01/23/08;

(e) 24th Annual S.C. Criminal Law Update 01/23/08;

(f) N.C./S.C. Appellate Judges' Conference 03/01/07;

(g) Annual Judicial Conference 08/22/07;

(h) The Law Clerk & Staff Code of Conduct 12/19/07;

(i) 4th Annual Civil Law Update 01/27/06;

(j) 21st Annual Criminal Law Update 01/27/06

(k) EIJ/Economics Institute for Judges 03/20/06;

(l) NJC/Essential Skills for the Appellate 07/01/06;

(m) NYUSCP/Appellate Judges Seminar 07/10/06;

(n) CLO/Mini Summit on Justice for Children 08/22/06;

(o) Annual Judicial Conference 08/23/06;

(p) NJC/South Carolina Judges/Journalists 09/28/06

(q) Crawford: A Hearsay Chimera 04/15/05;

(r) Post Conviction Relief Seminar 06/09/05;

(s) Annual Judicial Conference 08/24/05;

(t) Ethics 2005 Seminar 09/21/05;

(u) SCDTAA Annual Meeting 11/03/05;

(v) Appellate/Federal Judges Conference 05/26-27/05;

(w) 19th Annual Criminal Law Update 01/23/04;

(x) 2nd Annual Civil Law Update 01/23/04;

(y) SCCA Judicial Conference 08/19/04;

(z) Revised Lawyer's Oath CLE 07/28/04;

(aa) Judicial Oath of Office 08/19/04.

Judge Short reported that he has taught the following law-related courses:

(a) He has made presentations to Circuit Court Judges on the Court of Appeals at the Circuit Court Judges' Conference.

(b) He spoke on the topic Case File Development and Review, A View from the Judiciary at the South Carolina Solicitors' Conference.

(c) He served as a Group Facilitator with the faculty for a General Jurisdiction Course at the National Judicial College/Reno, Nevada for new Judges leading group discussions four hours each day on a wide variety of legal topics.

(d) He was instructor for a Seminar for South Carolina Legal Secretaries Association on the topic of Rules of Civil Procedure.

Judge Short reported that he has not published any books or articles.

(4) Character:

The Commission’s investigation of Judge Short did not reveal evidence of any founded grievances or criminal allegations made against him. The Commission’s investigation of Judge Short did not indicate any evidence of a troubled financial status. Judge Short has handled his financial affairs responsibly.

The Commission also noted that Judge Short was punctual and attentive in his dealings with the Commission, and the Commission’s investigation did not reveal any problems with his diligence and industry.

(5) Reputation:

Judge Short reported that his last available Martindale-Hubbell rating was AV.

Judge Short reported the following military service:

U.S. Army, June 1968; entered active duty August 1971; discharged from active duty November 1971; served S.C. National Guard until 1973; discharged U.S. Army Reserve 1974; highest rank attained was 1st Lieutenant; Present Status, Inactive Reserve; Honorably Discharged as Captain.

Judge Short reported that he has held the following public offices:

(a) South Carolina House of Representatives, elected, 1982-91;

(b) Chester County Airport Commission, appointed, 1978-80;

(c) Chester County Attorney, appointed, 1980-82.

(6) Physical Health:

Judge Short appears to be physically capable of performing the duties of the office he seeks.

(7) Mental Stability:

Judge Short appears to be mentally capable of performing the duties of the office he seeks.

(8) Experience:

Judge Short was admitted to the South Carolina Bar in 1971.

He gave the following account of his legal experience since graduation from law school:

I began the general practice of law in November 1971, in Chester, South Carolina, with Mr. Fred H. Strickland and Mr. E. K. Hardin, who later became Probate Judge of Chester County.

In late 1972, I became a partner in the firm and in approximately June 1973, Mr. Strickland was tragically killed in a house fire and I became senior partner at the age of 26. Mr. William C. Keels graduated from law school in June 1973, and he and I began practicing law together at that time.

I was honored to have been elected to the South Carolina Circuit Court At-Large Seat #8 on February 1, 1991, and served continuously until February 1999, when I was elected Resident Judge of the Sixth Judicial Circuit.

I was elected to the South Carolina Court of Appeals in May 2004.

Judge Short reported the frequency of his court appearances prior to his service on the bench as follows:

(a) Federal: Occasionally;

(b) State: Regularly.

Judge Short reported the percentage of his practice involving civil, criminal, and domestic matters prior to his service on the bench as follows:

(a) Civil: 20%;

(b) Criminal: 50%;

(c) Domestic: 30%.

Judge Short reported the percentage of his practice in trial court prior to his service on the bench as follows:

(a) Jury: 95%;

(b) Non-jury: 5%.

Judge Short provided that prior to his service on the bench he most often served as sole counsel, and occasionally chief counsel.

The following is Judge Short’s account of his five most significant litigated matters prior to his service on the bench:

(a) Walter Neal and Industrial Chemical Company, Inc. v. J. Simpson Darby, L.H. Schwieterman, John Archie Lucas, Donald B. Murray, Marion M. Thomas, and J. F. Martin, as members of the Chester County Council and the County of J. F. Martin, as members of the Chester County Council and the County of Chester (1984) Court of Appeals Opinion #0207 filed June 22, 1984. I was Chester County Attorney in 1980 and the Chester County Council was in the process of adopting an ordinance pertaining to the handling and storage of hazardous chemicals in Chester County. Mr. Neal brought Suit in Common Pleas Court to question the constitutionality of the ordinance and the county counter-claimed on the ground that Mr. Neal's landfill site was a public nuisance. The case was significant both at the trial level and the appellate level, because a small rural county was attempting to protect its citizens and their environment from the disposal of out-of-state hazardous waste. The trial judge and the Court of Appeals both found that the landfill constituted a public nuisance by virtue of its location and upheld the permanent injunction to prevent further disposal of hazardous chemical waste at the site.

(b) Chester County Hospital and Nursing Center v. J. F. Martin, Simpson Darby, John Lucas, Marion M. Thomas, Don Murray, Carlisle Roddey, Lowell Schweiterman, individually and as members of the Chester County, and the Chester County Council (1984) South Carolina Supreme Court Opinion #22053 filed March 6, 1984. In 1981, the Chester County Council was in the process of adopting an ordinance to increase the size of the Chester County Hospital Board and to provide that Council would appoint said Board members. This Board had previously been created by a local act of the General Assembly in 1947 which provided that vacancies would be filled by a two-thirds vote of the remaining Board members themselves. The Board petitioned the Circuit Court for an injunction to prevent the Council from enacting the ordinance. After an extensive hearing on the matter, which included the testimony of many respected leaders of the community such as U.S. District Court Judge Robert W. Hemphill, deceased, the lower Court issued a permanent injunction on the grounds that the County was attempting to exercise power beyond its limitations in violations of § 4-9-170, Code of Laws of South Carolina, 1976, as amended. The South Carolina Supreme Court remanded the case and vacated the injunction. The Court stated that it was well recognized that a Court could not restrain by injunction, the exercise of legislative power by counties. The Court cited 43A C.J.S., which states that restraining power of a Court should be directed against enforcement rather than passage of ordinances. The case is very significant because the Court upheld the County's actions which were undertaken because of the Home Rule Act.

(c) Vera B. Lawson, Executrix of the Estate of Robert Smith Lawson, deceased v. Bowaters Carolina Corporation, U.S. Fourth Circuit Court of Appeals #77-8320, Order filed October 31, 1977. In this case, I represented the Estate of a painter who was killed while painting the Defendant's plant in Rock Hill, South Carolina. The Plaintiff’s husband was employed by Robert's Paint Company, which had a contract with Bowaters to paint their facility. The Plaintiff’s husband was killed when an employee of Bowaters drove a forklift into the scaffold supports, thereby knocking the deceased to the ground. A death claim against Robert's Paint Company was filed for Workman's Comp benefits before the South Carolina Industrial Commission and the claim was approved. Subsequently, the Plaintiff filed a wrongful death action against Bowaters Carolina Corporation in U.S. District Court. The Defendant moved for Summary Judgment contending that under the provisions of the S.C. Workman's Compensation Act, the Plaintiff’s deceased husband was the "statutory employee" of the Defendant, and therefore, the Plaintiff’s sole remedy would be under the provisions of that Act. After considering the briefs and oral arguments of counsel, Judge Hemphill issued his Order on September 15, 1977, in which he denied the Motion for Summary Judgment and ordered the case be calendared for Jury trial. The Defendant petitioned the United States Fourth Circuit Court of Appeals for permission to appeal Judge Hemphill's Order, basing its argument on the grounds that there was a conflict between interpretation of controlling State law between the United States Supreme Court and the South Carolina Supreme Court. They denied the Defendant's petition and the case was later settled. This case was significant because it involved the question of the definition of a statutory employee under the South Carolina Workman's Comp Act.

(d) Canzadia White, as Administratrix of the Estate of Richard C. Carter, deceased v. Holsum Bakery, Inc. (1972) This was a wrongful death case in which all of the witnesses of the Plaintiff’s accident were the deceased's minor children. A lot of preparation was required to ensure that the minor children would be qualified by the Court to testify. A verdict was returned for the Plaintiff, and it has been said that this was, at that time, the highest jury verdict returned in Chester County for the wrongful death of an African American.

(e) Crystal J. Harmon, Committee for Benjamin Joseph Harmon, an Incompetent v. Aegis Corporation, Long Mill Rubber Company and Ryder Truck Rental Company U.S. District Court, Greenville Division, Complaint. filed August 1, 1985. The Plaintiff, Benjamin J. Harmon, age 21, suffered a totally and permanently disabling brain injury on July 14, 1983, when the automobile he was driving was struck by the Defendant, who had disregarded a traffic control device. I began representing the Plaintiff shortly after his accident, and successfully negotiated an agreement that the carrier would pay for immediate medical care. This was medically significant because it is essential that a person with a brain injury receive extensive rehabilitation immediately after the injury to maximize potential improvement. During my representation, I traveled rather extensively and learned that there are not many facilities in the United States that can adequately care for those with head injuries. A jury was drawn for trial, however, approximately one week before the trial was scheduled to begin, the case was settled in 1986. It was a personally significant case in that it was the largest settlement I ever obtained and required more preparation than any other legal matter I ever handled.

The following is Judge Short’s account of five civil appeals he has personally handled:

(a) Walter Neal and Industrial Chemical Company, Inc. v. J. Simpson Darby, L.H. Schwieterman, John Archie Lucas, Donald B. Murray, Marion M. Thomas, and J. F. Martin as members of the Chester County Council and the County of Chester S.C. Court of Appeals, June 22, 1984; 282 S.C. 277; 318 S.E.2d 18.

(b) Chester County Hospital and Nursing Center v. J. F. Martin, Simpson Darby, John Lucas, Marion M. Thomas, Don Murray, Carlisle Roddey, Lowell Schweiterman, individually and as members of the Chester County Council, and the Chester County Council S.C. Court of Appeals; March 6, 1984; 281 S.C. 25; 314 S.E.2d 25.

(c) Thomas Beckham v. Sara Kay B. Short S.C. Supreme Court; and the S.C. Court. of Appeals, June 5, 1989, and January 25, 1988; 380 S.E. 2d 826; 298 S.C. 348; 365 S.E.2d 42; 294 S.C. 415.

(d) Patricia Moore Lucas v. Ernest Wendell Lucas S.C. Supreme Court; May 9, 1983; 302 S.E. 2d. 863; S.C.

(e) Willie Mack Thomas Sr. and Naomi F. Thomas v. George Wilson, individually and d/b/a Palmetto Mobile Homes S.C. Court of Appeals; March 9, 1984; Memorandum Opinion No. 84-MO-007.

The following is Judge Short’s account of criminal appeals he has personally handled:

“I have been serving on the Bench since July 1991, and have not practiced law since that time. I handled a number of criminal cases while practicing law, but I do not recall any of the cases being appealed to the Supreme Court or to the Court of Appeals. I do recall several criminal appeals from the Magistrate Court to the Circuit Court, but I do not recall the names of the individual Defendants at this time.”

Judge Short reported that he has held the following judicial offices:

(a) July 1991-February 1999; South Carolina Circuit Court at Large, Seat #8;

(b) February 1999-June 2004; Resident Judge, Sixth Judicial Circuit;

(c) July 2004-Present; South Carolina Court of Appeals, Seat #1.

Judge Short provided the following list of his most significant orders or opinions:

(a) Cannon v. SCDPPPS, 361 S.C. 425, 604 S.E.2d 709 (Ct. App. 2004); 371 S.C. 581, 641 S.E.2d 429 (2007)

(b) Gillman v. City of Beaufort, 368 S.C. 24, 627 S.E.2d 746 (Ct. App. 2006);

(c) Lukich v. Lukich, 368 S.C. 47, 627 S.E.2d 754 (Ct. App. 2006) 379 S.C. 589, 666 S.E.2d 906 (2008);

(d) Vortex Sports & Entertainment, Inc. v. Ware, 378 S.C. 197, 662 S.E.2d 444 (Ct. App. 2008);

(e) State v. Singley, 2009 WL 1313243 (Ct. App. 2009).

Judge Short further reported the following regarding unsuccessful candidacies:

“I withdrew from the South Carolina Court of Appeals, Seat #6 on February 4, 2003, after having been selected one of the three candidates selected by the Judicial Merit Selection Committee. In the spring of 2003, I was an unsuccessful candidate for the South Carolina Court of Appeals, Seat 3. I was reported out of the Screening Committee Qualified but not nominated.”

(9) Judicial Temperament:

The Commission believes that Judge Short’s temperament has been and would continue to be excellent.

(10) Miscellaneous:

Judge Short is married to Linda Huffstetler Short. He has two children.

Judge Short reported that he was a member of the following bar associations and professional associations:

(a) Chester County Bar Association;

(b) South Carolina Bar Association;

(c) Appellate Judges Association.

Judge Short provided that he was a member of the following civic, charitable, educational, social, or fraternal organizations:

(a) Purity Presbyterian Church; former Deacon, Elder;

(b) Sertoma International, Life Member;

(c) Chester Shrine Club;

(d) Chester Masonic Lodge;

(e) American Legion;

(f) Chester Men's Golf Association;

(g) Phi Delta Phi.

Judge Short further reported:

While I was practicing law, I had the pleasure to serve and to gain valuable experience on the Board of Commissioners on Grievances and Discipline.

**The Piedmont Citizen’s Committee on Judicial Qualification found Judge Short to be “Well-Qualified” for this position, finding the following:**

**“1. Constitutional Qualification: well-qualified (a sitting judge)**

**2. Ethical Fitness: Well-qualified (no ethical problems noted)**

**3. Professional and Academic Ability: Well-qualified (continuing education courses up to date. close to having Jurist Masters Degree from the University of Nevada. Thesis has not been completed).**

**4. Character: Well-qualified. No character issues noted.**

**5. Reputation: Good (As an attorney, he had the highest professional rating that he could receive from his peers/Martindale-Hubbell rating AV)**

**6. Physical Health: Appears to be good. He stated that he was in good health.**

**7. Mental Stability: Appears to be mentally stable. He stated that he had no mental issues.**

**8. Experience: Well-qualified. Currently a senior S.C. Court of Appeals judge 5 years experience/Circuit Court Judge 13 years experience.**

**9. Judicial Temperament: Good (Appears to be cordial, open minded, fair, and a good listener).”**

(11) Commission Members’ Comments:

The Commission commented that Judge Short has excellent ideas as to his vision as Chief Judge for the Court of Appeals. They noted that he is very experienced, having practiced law for 20 years and having served as a judge on both the Circuit Court (for 13 years) and on the Court of Appeals (for five years), which will assist him as the Chief Judge.

(12) Conclusion:

The Commission found Judge Short qualified and nominated him for election as Chief Judge on the Court of Appeals.

**CIRCUIT COURT**

**Diane Schafer Goodstein**

**Circuit Court, First Judicial Circuit, Seat 2**

**Commission’s Findings: QUALIFIED AND NOMINATED**

(1) Constitutional Qualifications:

Based on the Commission’s investigation, Judge Goodstein meets the qualifications prescribed by law for judicial service as a Circuit Court judge.

Judge Goodstein was born in 1955. She is 54 years old and a resident of Summerville, South Carolina. Judge Goodstein provided in her application that she has been a resident of South Carolina for at least the immediate past five years and has been a licensed attorney in South Carolina since 1981.

(2) Ethical Fitness:

The Commission’s investigation did not reveal any evidence of unethical conduct by Judge Goodstein.

Judge Goodstein demonstrated an understanding of the Canons of Judicial Conduct and other ethical considerations important to judges, particularly in the areas of ex parte communications, acceptance of gifts and ordinary hospitality, and recusal.

Judge Goodstein reported that she has made $70 in campaign expenditures for typing.

Judge Goodstein testified she has not:

(a) sought or received the pledge of any legislator prior to screening;

(b) sought or been offered a conditional pledge of support by a legislator;

(c) asked third persons to contact members of the General Assembly prior to screening.

Judge Goodstein testified that she is aware of the Commission’s 48-hour rule regarding the formal and informal release of the Screening Report.

(3) Professional and Academic Ability:

The Commission found Judge Goodstein to be intelligent and knowledgeable. Her performance on the Commission’s practice and procedure questions met expectations.

Judge Goodstein described her past continuing legal or judicial education during the past five years as follows:

Conference/CLE Name Date

(a) Conference S.C. Women Lawyers 4/30/04;

(b) 19th Annual Criminal Law Update 1/23/04;

(c) 2nd Annual Civil Law Update 1/23/04;

(d) S.C. Circuit Judges Conference 5/05/04;

(e) Annual Judicial Conference 8/19/04;

(f) Judicial Oath of Office 9/19/04;

(g) Advanced Evidence, National Judicial College 11/15-18/04;

(h) 3rd Annual Civil Law Update \_\_\_\_

(i) 20th Annual Criminal Law Update 1/05;

(j) Circuit Judges Conference 5/11/05;

(k) Annual Judicial Conference 8/20/05;

(l) Fourth Annual Civil Law Update 1/27/06;

(m) 21st Annual Criminal Law Update 1/27/06;

(o) Circuit Court Judicial Conference 5/20/06;

(p) Handling Capital Cases 6/10/06;

(q) 2006 Annual Judicial Conference 8/23/06;

(r) S.C. Judges and Journalists 9/28/06;

(s) Fifth Annual Civil Law Update 1/26/07;

(t) 22nd Annual Criminal Law Update 1/26/07;

(u) Fifth Annual Civil Law Update 1/26/07;

(v) S.C. Circuit Judges Conference 5/14/08;

(w) ABA Judicial Division 8/7/08;

(x) 2008 Judicial Conference 8/20/08;

(y) ODC Commission and Attorney Training 10/21/08;

(z) 7th Annual Civil Law Update 1/23/09;

(aa) Circuit Conference 5/6/09.

Judge Goodstein reported that she has taught the following law-related courses:

Course/Lecture Name Date

(a) Group Leader National Judicial College –

Advanced Evidence Course 11/15-18/04;

(b) Panel Participation Women Lawyers Conference 4/30/04;

(c) SCCA Orientation School for New Judges -

Presentation: Running of a Court 2004;

(d) SCCA Orientation School for New Judges –

Presentation: Running of a Court 7/11/05;

(e) S.C. Young Lawyers Division Panel Participation 1/28/06;

(f) S.C. Women Lawyers Speaker – Ladder to Success 10/13/06;

(g) Workers Compensation Convention Speaker –

Ethical Considerations in Workers Compensation Appeals 2006;

(h) Magistrate’s School Presentation – Running of the Court 3/28/07;

(i) Jewish Historical Society Panel Discussion Participant 4/28/07;

(j) Magistrate’s Orientation School 3/17/08;

(k) Orientation School for New Judges 7/9/08;

(l) Magistrates School Orientation 7/21/08;

(m) SCDTAA Joint Meeting 7/24/08;

(n) NBI Teacher - What Civil Court Judges Want 9/19/08;

(o) Orientation School for Magistrates 3/16/09;

(p) New Magistrates School 7/31/09;

(q) Over the past several years, I have helped mentor the following judges who presided with me during their 4-week mentoring process:

1 – Hon. Deadra L. Jefferson

2 – Hon. Michelle Childs

3 – Hon. Carmen Mullen

4 – Hon. Benjamin Culbertson

5 – Hon. Larry Hyman

6 – Hon. R. Knox McMahon

7 – Hon. Kristi L. Harrington

8 – Hon. Edger W. Dickson

9 – Hon. Rob Stillwell.

Judge Goodstein reported with respect to the books and/or articles she has written, “Materials have been published for times I have taught and/or presented. I have not published materials other than those.”

(4) Character:

The Commission’s investigation of Judge Goodstein did not reveal evidence of any founded grievances or criminal allegations made against her. The Commission’s investigation of Judge Goodstein did not indicate any evidence of a troubled financial status. Judge Goodstein has handled her financial affairs responsibly.

The Commission also noted that Judge Goodstein was punctual and attentive in her dealings with the Commission, and the Commission’s investigation did not reveal any problems with her diligence and industry.

(5) Reputation:

Judge Goodstein reported that her last available Martindale-Hubbell rating was AV.

(6) Physical Health:

Judge Goodstein appears to be physically capable of performing the duties of the office she seeks.

(7) Mental Stability:

Judge Goodstein appears to be mentally capable of performing the duties of the office she seeks.

(8) Experience:

Judge Goodstein was admitted to the South Carolina Bar in 1981.

She gave the following account of her legal experience since graduation from law school:

I began practice as an associate with the firm of Goodstein, Bowling, Douglas & Phillips from 1981 through 1983. I became a partner in Goodstein & Goodstein, PA, from 1983 through 1998. After my election to the bench in 1998 and days before I concluded my practice, my law firm merged with the firm of Rosen, Rosen & Hagood, creating Rosen, Goodstein & Hagood. My husband continued to practice with that firm until the end of 2000.

My private practice was a general one which progressed to one which was primarily associated with the representation of plaintiffs, and finally to one which represented both plaintiffs and defendants. In the later years, I practiced more often in the public sector, serving as Dorchester County Attorney, as General Counsel for the Charleston County Aviation Authority, and as counsel for Dorchester County School District Number Two. I prosecuted cases for the Charleston County Aviation Authority Police Department. In 1997, Goodstein & Goodstein began to represent the South Carolina Insurance Reserve Fund in cases arising in Charleston and Dorchester Counties. After sixteen years, my law practice had expanded into numerous areas of the private and public sector, representing both plaintiffs and defendants.

Judge Goodstein reported that she has held the following judicial office:

“I was elected as a Resident Judge, First Judicial Circuit, Seat 2, on May 6, 1998, for the term July 1, 1998, through June 30, 2004. I was re-elected February 2004, and am currently serving my second term. Limitations on jurisdiction include only those matters for which exclusive jurisdiction lies in the family court. The Circuit Court is best described as a court of general jurisdiction.”

Judge Goodstein provided the following list of her most significant orders or opinions:

(a) State v. Marion Bowman – 366 S.C. 45, 623 SE2nd 378, 2005: This was a death penalty case for which many pre-trial orders were issued, the most significant being the order to suppress defendant’s confession. This matter was affirmed.

(b) Sullivan v. South Carolina Department of Corrections 355 S.C.437, 586 S.E2nd 124

(c) Mary Louise Fairy v. Exxon, Case No: 94-CP-37-118, order denying motion to reconsider and other relief

(d) State v Kenneth Harry Justus, Indictment 2005-GS-18-1265; order attached.

(e) Margaret Sheikh as personal representative of the estate of Asif Sheikh, deceased v. Lexington Medical Center, Case No.: 2003-CP-32-0675.

Judge Goodstein reported the following regarding her employment while serving as a judge:

“Other than my judicial office, I have not had any outside employment since my election in 1998. For a period, I was on the board of my husband’s company, but I am no longer serving in that capacity.”

Judge Goodstein further reported the following regarding unsuccessful candidacies:

“I ran for the South Carolina Supreme Court twice in 2007, and while found qualified, I was not nominated.”

(9) Judicial Temperament:

The Commission believes that Judge Goodstein’s temperament has been and would continue to be excellent.

(10) Miscellaneous:

Judge Goodstein is married to Arnold Samuel Goodstein. She has two children.

Judge Goodstein reported that she was a member of the following Bar associations and professional associations:

(a) South Carolina Bar Association;

(b) American Bar Association;

(c) Dorchester County Bar Association;

(d) Circuit Judges Association;

(e) Women in Law Association.

Judge Goodstein provided that she was a member of the following civic, charitable, educational, social, or fraternal organizations:

(a) Summerville Debutante Club;

(b) Circuit Judges Advisory Committee Member;

(c) Judicial Standards Committee Member.

**The Lowcountry Citizen’s Committee on Judicial Qualification found Judge Goodstein to be “Well-Qualified” for each of the nine evaluative criteria: constitutional qualifications, ethical fitness, professional and academic ability, character, reputation, physical health, mental stability, experience, and judicial temperament.**

(11) Commission Members’ Comments:

The Commission commented that Judge Goodstein is an excellent judge who is known for being assigned and handling very difficult cases in the Circuit Court.

(12) Conclusion:

The Commission found Judge Goodstein qualified and nominated her for re-election to the Circuit Court.

**Judge Doyet A.”Jack” Early, III**

**Circuit Court, Second Judicial Circuit, Seat 1**

**Commission’s Findings: QUALIFIED AND NOMINATED**

Pursuant to S.C. Code Ann. §2-19-40, the Commission waived the public hearing for Judge Early since his candidacy for re-election was uncontested, the investigation did not reveal any significant issues to address, and no complaints were received.

(1) Constitutional Qualifications:

Based on the Commission’s investigation, Judge Early meets the qualifications prescribed by law for judicial service as a Circuit Court judge.

Judge Early was born in 1948. He is 62 years old and a resident of Bamberg, South Carolina. Judge Early provided in his application that he has been a resident of South Carolina for at least the immediate past five years and has been a licensed attorney in South Carolina since 1974.

(2) Ethical Fitness:

The Commission’s investigation did not reveal any evidence of unethical conduct by Judge Early.

Judge Early demonstrated an understanding of the Canons of Judicial Conduct and other ethical considerations important to judges, particularly in the areas of ex parte communications, acceptance of gifts and ordinary hospitality, and recusal.

Judge Early reported that he has not made any campaign expenditures.

Judge Early testified he has not:

(a) sought or received the pledge of any legislator prior to screening;

(b) sought or been offered a conditional pledge of support by a legislator;

(c) asked third persons to contact members of the General Assembly prior to screening.

Judge Early testified that he is aware of the Commission’s 48-hour rule regarding the formal and informal release of the Screening Report.

(3) Professional and Academic Ability:

The Commission found Judge Early to be intelligent and knowledgeable. His performance on the Commission’s practice and procedure questions met expectations.

Judge Early described his past continuing legal or judicial education during the past five years as follows:

Conference/CLE Name Date

(a) 19th Annual Criminal Law Update 01/23/2004;

(b) 2nd Annual Civil Law Update 01/23/2004;

(c) 2004 S.C. Circuit Judges' Conf 05/05/2004;

(d) 2004 Orientation School for Judges 07/12/2004;

(e) 2004 Judicial Conference 08/19/2004;

(f) Judicial Oath of Office 08/19/2004;

(g) Seminar for Chief Administrative Judges 12/10/2004;

(h) 20th Annual Criminal Law Update 01/21/2005;

(i) 2005 Circuit Judges Conf 05/11-13/2005;

(j) 2005 Annual Judicial Conf 08/24/2005;

(k) 2005 Annual S.C. Solicitor's Conf 09/25/2005;

(l) SCDTAA Annual Meeting 11/03/2005;

(m) Fourth Annual Civil Law Update 01/27/2006;

(n) 21st Annual Criminal Law Update 01/27/2006;

(o) Young Lawyers Division 01/28/2006;

(p) 2006 Annual Judicial Conference 08/23/2006;

(q) Conflicts and Ethics 10/12/2006;

(r) 22nd Annual Criminal Law Update 01/26/2007;

(s) 5th Annual Civil Law Update 01/26/2007;

(t) 2007 Annual Judicial Conference 08/22/2007;

(u) 23rd Annual S.C. Criminal Law Update 01/25/2008;

(v) 6th Annual Civil Law Update 01/25/2008;

(w) 2008 Judicial Conference 08/20/2008;

(x) SCDTAA Annual Meeting 11/13/2008;

(y) 7th Annual Civil Law Update 01/23/2009;

(z) 2009 Annual S.C. Circuit Judges' Conference 05/06-08/2009.

Judge Early reported that he has taught the following law-related courses:

(a) I participated in a panel discussion at the Solicitor's Conference on recent legal developments in the area of criminal law.

(b) I participated in a presentation with other judges at the Charleston School of Law on the professional responsibilities of attorneys before the student body.

(c) I participated in a panel with other judges at the S.C. Defense Association; topic was "Observation from the Bench"

(d) While still in practice, I lectured at a number of CLEs on medical malpractice issues.

Judge Early reported that he has published the following:

Bifurcated Punitive Damages Proceedings , D. A. Early, III, Richard B. Ness & Norma A. T. Jett (South Carolina Trial Lawyer, Summer 1998).

(4) Character:

The Commission’s investigation of Judge Early did not reveal evidence of any founded grievances or criminal allegations made against him. The Commission’s investigation of Judge Early did not indicate any evidence of a troubled financial status. Judge Early has handled his financial affairs responsibly.

The Commission also noted that Judge Early was punctual and attentive in his dealings with the Commission, and the Commission’s investigation did not reveal any problems with his diligence and industry.

(5) Reputation:

Judge Early reported that his last available Martindale-Hubbell rating was AV.

Judge Early reported the following military service:

March 1970 - February 1976, Air National Guard, Sgt., XXX-XX-XXXX, Honorable Discharge.

(6) Physical Health:

Judge Early appears to be physically capable of performing the duties of the office he seeks.

(7) Mental Stability:

Judge Early appears to be mentally capable of performing the duties of the office he seeks.

(8) Experience:

Judge Early was admitted to the South Carolina Bar in 1974.

He gave the following account of his legal experience since graduation from law school:

(a) November 1974 to July 1976 practiced with W. D. Rhoad, Bamberg, S.C. - general practice;

(b) In July 1976, opened as a sole practitioner. My practice grew and at the time I took the bench I was the senior and founding member of Early & Ness, a firm with three partners, two associates and staff. I served as the County Attorney for over 25 years. My practice covered all general areas with particular emphasis on medical malpractice litigation.

Judge Early reported that he has held the following judicial office:

“Circuit Judge since 05-01-04; 2nd Circuit, elected.”

Judge Early provided the following list of his most significant orders or opinions:

(a) Estate of James Brown - numerous orders regarding all aspects of the administration of his estate, one order appealed and affirmed by Court of Appeals.

(b) Graniteville Train Derailment - numerous orders regarding the management of the largest mass tort in our state.

(c) Herron v. Carmax et al - Quasi class action orders regarding suit over car dealer administrative fees.

(d) Heritage v. SCANA and Surburban Gas - two week jury trial over the sale of a portion of SCANA's assets - allegations of breach of contract, breach of contract with fraudulent intent and many more issues - Jury returned a multi-million dollar verdict. I issued numerous orders in the case on pretrial issues as well as post trial matters dealing with election of remedies, attorney fees and the amount of the verdict.

(e) Jamison v. Texaco et al - trial that concluded with a 30 million dollar verdict for a quadriplegic plaintiff- Many orders were issued including orders for summary judgment, orders dealing with complicated agency questions, orders dealing with former justices testifying as experts on interpreting contracts, as well as many post trial orders.

(9) Judicial Temperament:

The Commission believes that Judge Early’s temperament has been and would continue to be excellent.

(10) Miscellaneous:

Judge Early is married to Linda Lee Foy Early. He has two children.

Judge Early reported that he was a member of the following bar association:

South Carolina Bar.

Judge Early provided that he was not a member of any civic, charitable, educational, social, or fraternal organizations.

Judge Early further reported:

“I consider my election and service since May 1, 2004 as a circuit court judge to be the highest professional honor and privilege that I have ever had. I take all of my duties, requirements and responsibilities with the strongest professional and personal commitment possible. I have attempted to conduct myself professionally and personally in such a manner to avoid any negative reflection on our judicial system. I am 61 years old, have been married for 40 years, practiced law for 30 years, raised 2 boys, was the oldest of 5 children and now have two granddaughters; I use all of the experiences in the above roles to guide my everyday decisions as a judge.”

**The Midlands Citizen’s Committee on Judicial Qualification found Judge Early to be “Well-Qualified” for each of the nine evaluative criteria: constitutional qualifications, ethical fitness, professional and academic ability, character, reputation, physical health, mental stability, experience, and judicial temperament. The Committee found in summary that, “Judge Early is an asset to our state judiciary and his service to our state has been outstanding and honorable in every way. He is most eminently qualified to continue to serve on the Circuit Court bench.”**

(11) Commission Members’ Comments:

The Commission commented that in Judge Early’s five years on the Circuit Court bench, he has very capably handled several complex cases.

(12) Conclusion:

The Commission found Judge Early qualified and nominated him for re-election to the Circuit Court.

**Ralph Ferrell Cothran, Jr.**

**Circuit Court, Third Judicial Circuit, Seat 1**

**Commission’s Findings: QUALIFIED AND NOMINATED**

Pursuant to S.C. Code Ann. §2-19-40, the Commission waived the public hearing for Judge Cothran since his candidacy for re-election was uncontested, the investigation did not reveal any significant issues to address, and no complaints were received.

(1) Constitutional Qualifications:

Based on the Commission’s investigation, Judge Cothran meets the qualifications prescribed by law for judicial service as a Circuit Court judge.

Judge Cothran was born in 1952. He is 57 years old and a resident of Manning, South Carolina. Judge Cothran provided in his application that he has been a resident of South Carolina for at least the immediate past five years and has been a licensed attorney in South Carolina since 1977.

(2) Ethical Fitness:

The Commission’s investigation did not reveal any evidence of unethical conduct by Judge Cothran.

Judge Cothran demonstrated an understanding of the Canons of Judicial Conduct and other ethical considerations important to judges, particularly in the areas of ex parte communications, acceptance of gifts and ordinary hospitality, and recusal.

Judge Cothran reported that he has not made any campaign expenditures.

Judge Cothran testified he has not:

(a) sought or received the pledge of any legislator prior to screening;

(b) sought or been offered a conditional pledge of support by a legislator;

(c) asked third persons to contact members of the General Assembly prior to screening.

Judge Cothran testified that he is aware of the Commission’s 48-hour rule regarding the formal and informal release of the Screening Report.

(3) Professional and Academic Ability:

The Commission found Judge Cothran to be intelligent and knowledgeable. His performance on the Commission’s practice and procedure questions met expectations.

Judge Cothran described his past continuing legal or judicial education during the past five years as follows:

Conference/CLE Name Date

(a) Association of Counties 7/05;

(b) Planning and Zoning 8/23/05;

(c) S.C. Solicitor's Conference 9/05;

(d) Judges Conference (SCCJC) 5/16/07;

(e) General Jurisdiction (NJC) 7/15/07;

(f) 2007 Annual Judicial Conference (SCCA) 8/22/07;

(g) 2007 Annual Conference (SCSA) 9/23/07;

(h) 23rd Annual S.C. Criminal Law Update (S.C. Bar) 1/25/08;

(i) 6th Annual Civil Law Update (S.C. Bar) 1/25/08;

(j) 2008 SCTLA Annual Convention (SCAJ) 8/7/08;

(k) 2008 Judicial Conference (SCCA) 8/20/08;

(l) 2008 S.C. Solicitor's Association (SCSA) 9/28/08;

(m) 7th Annual Civil Law Update (S.C. Bar) 1/23/09;

(n) 24th Annual S.C. Criminal Law Update (S.C. Bar) 1/23/09.

Judge Cothran reported that he has taught the following law-related courses:

“I conducted a course at the Criminal Justice Academy over a 5 year period regarding Auto Theft and Chop Shop Law.”

Judge Cothran reported that he has not published any books or articles.

(4) Character:

The Commission’s investigation of Judge Cothran did not reveal evidence of any founded grievances or criminal allegations made against him. The Commission’s investigation of Judge Cothran did not indicate any evidence of a troubled financial status. Judge Cothran has handled his financial affairs responsibly.

The Commission also noted that Judge Cothran was punctual and attentive in his dealings with the Commission, and the Commission’s investigation did not reveal any problems with his diligence and industry.

(5) Reputation:

Judge Cothran reported that his last available Martindale-Hubbell rating was BV.

Judge Cothran reported that he has held the following public office:

“I was appointed as Chairman to the Election Commissions in 1979 by John C. Land, III, and held that position until 1990. I was appointed as Assistant Solicitor in 1983 and served in that capacity through September 2006.”

(6) Physical Health:

Judge Cothran appears to be physically capable of performing the duties of the office he seeks.

(7) Mental Stability:

Judge Cothran appears to be mentally capable of performing the duties of the office he seeks.

(8) Experience:

Judge Cothran was admitted to the South Carolina Bar in 1977.

He gave the following account of his legal experience since graduation from law school:

After completing the Bar Examination in 1977, I began working with my father in his practice of Cothran, Chandler and Cothran. In the early 1980's, it became the firm of Cothran and Cothran with Ray E. Chandler, Jr. leaving the firm. Scott Robinson joined the firm after my father was elected Probate Judge for Clarendon County and it became the firm of Cothran and Robinson. My practice consisted of real estate, family, civil and criminal matters. I became the County Attorney in 1979 and served in that capacity through September 2006. In 1983, I was appointed by Wade S. Kolb, Jr., Solicitor of the Third Circuit as the Assistant Solicitor for Clarendon County and was a prosecuting attorney through September 2006. I was elected to the Circuit Bench on February 15, 2006 and began working October 1, 2006 - present.

Judge Cothran reported that he has held the following judicial office:

“On February 15, 2006, I was elected to fill the unexpired term of Thomas W. Cooper, Jr. I began that term October 1, 2006. General civil and criminal jurisdiction throughout the state.”

Judge Cothran provided the following list of his most significant orders or opinions:

(a) State of South Carolina vs. Roland Wayne Geddings (2008-GS-14-67);

(b) Homeowners Services vs. Donald J. Hatcher, etal (2006-CP-43-1688);

(c) Patrick Booker vs. Maurice Mcnab (2007-CP-31-297);

(d) Deloris Lesesne vs. Charles H. Powers, et al (07-CP-43-1804);

(e) Oka Deas Gilliard, et al vs. Darci Strickland, et al (2008-CP-43-1384).

(9) Judicial Temperament:

The Commission believes that Judge Cothran’s temperament has been and would continue to be excellent.

(10) Miscellaneous:

Judge Cothran is married to Deborah Jean Brakefield Cothran. He has three children.

Judge Cothran reported that he was a member of the following bar associations and professional associations:

(a) South Carolina Bar;

(b) Clarendon County Bar Association.

Judge Cothran provided that he was a member of the following civic, charitable, educational, social, or fraternal organizations:

(a) First Presbyterian Church at Manning Clerk of Session/Chairman Board of Deacons;

(b) Rotary Club.

Judge Cothran further reported:

“I served with the Solicitor's Office for 23 years where I handled criminal proceedings in Clarendon County. I feel that experience has served me well in my present position.”

**The Pee Dee Citizen’s Committee on Judicial Qualification found Judge Cothran to be “Well-Qualified” for each of the nine evaluative criteria: constitutional qualifications, ethical fitness, professional and academic ability, character, reputation, physical health, mental stability, experience, and judicial temperament.**

(11) Commission Members’ Comments:

The Commission commented that Judge Cothran has very ably served as a Circuit Court judge for three years and noted that his legal background gained at the Solicitor’s Office has assisted him on the bench.

(12) Conclusion:

The Commission found Judge Cothran qualified and nominated him for election to the Circuit Court.

**Paul M. Burch**

**Circuit Court, Fourth Judicial Circuit, Seat 1**

**Commission’s Findings: QUALIFIED AND NOMINATED**

Pursuant to S.C. Code Ann. §2-19-40, the Commission waived the public hearing for Judge Burch since his candidacy for re-election was uncontested, the investigation did not reveal any significant issues to address, and no complaints were received.

(1) Constitutional Qualifications:

Based on the Commission’s investigation, Judge Burch meets the qualifications prescribed by law for judicial service as a Circuit Court judge.

Judge Burch was born in 1954. He is 55 years old and a resident of Pageland, South Carolina. Judge Burch provided in his application that he has been a resident of South Carolina for at least the immediate past five years and has been a licensed attorney in South Carolina since 1980.

(2) Ethical Fitness:

The Commission’s investigation did not reveal any evidence of unethical conduct by Judge Burch.

Judge Burch demonstrated an understanding of the Canons of Judicial Conduct and other ethical considerations important to judges, particularly in the areas of ex parte communications, acceptance of gifts and ordinary hospitality, and recusal.

Judge Burch reported that he has not made any campaign expenditures.

Judge Burch testified he has not:

(a) sought or received the pledge of any legislator prior to screening;

(b) sought or been offered a conditional pledge of support by a legislator;

(c) asked third persons to contact members of the General Assembly prior to screening.

Judge Burch testified that he is aware of the Commission’s 48-hour rule regarding the formal and informal release of the Screening Report.

(3) Professional and Academic Ability:

The Commission found Judge Burch to be intelligent and knowledgeable. His performance on the Commission’s practice and procedure questions met expectations.

Judge Burch described his past continuing legal or judicial education during the past five years as follows:

Conference/CLE Name Date

(a) National Judicial College 6/5/06-6/8/06;

(b) Economics Institute for Judges 3/20-25/06;

(c) Critical Issues in Toxic Torts Litigation 4/28-29-05;

(d) 20th Annual Criminal Law Update-S.C. Bar 2/21/2005;

(e) 2005 Circuit Court Judges-SCCJC 5/11-13/05;

(f) Civil & Criminal Law Update 1/27/06;

(g) Criminal Evidence 6/5/06;

(h) 2006 Annual Judicial Conference 8/23/06;

(i) 2006 Annual S.C. Solicitors 9/24/06;

(j) SCDA Annual Meeting 11/9/06;

(k) 22nd Annual Criminal Law Update 1/26/07;

(l) 5th Annual Civil Law Update 1/26/07;

(m) 2008 Judicial Conference 8/20/08;

(n) Sporting Clays/Skeet Shoot 10/30/08;

(o) SCDA Annual Meeting 11/13/08;

(p) 7th Annual Civil Law Update 1/23/09;

(q) 24th Annual S.C. Criminal Law Update 1/23/09.

Judge Burch reported that he has taught the following law-related courses:

(a) I have served on judicial panels on several occasions at the S.C. Solicitors Conference

(b) I have served on judicial panels at the S.C. Defense Attorney's Convention.

Judge Burch reported that he has not published any books or articles.

(4) Character:

The Commission’s investigation of Judge Burch did not reveal evidence of any founded grievances or criminal allegations made against him. The Commission’s investigation of Judge Burch did not indicate any evidence of a troubled financial status. Judge Burch has handled his financial affairs responsibly.

The Commission also noted that Judge Burch was punctual and attentive in his dealings with the Commission, and the Commission’s investigation did not reveal any problems with his diligence and industry.

(5) Reputation:

Judge Burch reported that he is “listed but not rated in Martindale-Hubbell.”

Judge Burch reported that he has held the following public offices:

(a) Chesterfield County Council 1983-87;

(b) S.C. House of Representatives 1988-91.

(6) Physical Health:

Judge Burch appears to be physically capable of performing the duties of the office he seeks.

(7) Mental Stability:

Judge Burch appears to be mentally capable of performing the duties of the office he seeks.

(8) Experience:

Judge Burch was admitted to the South Carolina Bar in 1980.

He gave the following account of his legal experience since graduation from law school:

(a) Paul M. Burch, Attorney at Law, sole general practice 1980-1991;

(b) Full partner in the Firm of Henderson, Burch & Spencer 1991;

(c) Resident Circuit Court Judge for the Fourth Judicial Circuit-1991 to present.

Judge Burch reported that he has held the following judicial office:

“Resident Judge of the Fourth Circuit - 7/1/1991 until present.”

Judge Burch provided the following list of his most significant orders or opinions:

(a) Carolina Power & Light Company vs The City of Bennettsville and Marlboro Electric Cooperative, Inc.; 314 SC137, 442 S.E.2d 177 (1994) (affirmed by Supreme Court);

(b) Glenn P. Tallent and Christopher C. King vs Solid Waste Recycling Disposal User Fee Appeals Board of the County of Chester County, Chester County Council, Treasurer of Chester County and Chester County Tax Assessor, individually, and in their official capacity; Case Number 94-CP-12-120;

(c) Chip Knoke as Personal Representative of the Estate of Jeremy Ryan Knoke vs The South Carolina Department of Parks, Recreation and Tourism; 478S.E.2d 256 (1996) (affirmed by Supreme Court);

(d) Darlington County School District vs Cedric Washington; Case Number: 94-CP-16-134;

(e) Donald M.Brandt Individually and as the Personal Representative of the Estate of Janice N. Brandt, Deceased vs Elizabeth K. Gooding and Gooding & Gooding, PA; 368 SC 618 (2006).

Judge Burch further reported the following regarding unsuccessful candidacies:

“Unsuccessful candidate for S.C. House of Representatives in 1976 and 1978.”

(9) Judicial Temperament:

The Commission believes that Judge Burch’s temperament has been and would continue to be excellent.

(10) Miscellaneous:

Judge Burch is married to Kimberly Thomas Burch. He has three children.

Judge Burch reported that he was a member of the following bar associations and professional associations:

(a) Chesterfield County Bar Association;

(b) South Carolina Bar Association.

Judge Burch provided that he was a member of the following civic, charitable, educational, social, or fraternal organizations:

(a) Pageland Methodist Church;

(b) Pageland Volunteer Fire Department;

(c) Mt. Moriah Masonic Lodge #58;

(d) Jamil Shrine Temple.

**The Pee Dee Citizen’s Committee on Judicial Qualification found Judge Burch to be “Well-Qualified” for each of the nine evaluative criteria: constitutional qualifications, ethical fitness, professional and academic ability, character, reputation, physical health, mental stability, experience, and judicial temperament.**

(11) Commission Members’ Comments:

The Commission commented on Judge Burch’s current leadership role as President of the Circuit Court Judge’s Association and his 18 years of excellent service on the Circuit Court bench.

(12) Conclusion:

The Commission found Judge Burch qualified and nominated him for re-election to the Circuit Court.

**Brooks P. Goldsmith**

**Circuit Court, Sixth Judicial Circuit, Seat 1**

**Commission’s Findings: QUALIFIED AND NOMINATED**

Pursuant to S.C. Code Ann. §2-19-40, the Commission waived the public hearing for Judge Goldsmith since his candidacy for re-election was uncontested, the investigation did not reveal any significant issues to address, and no complaints were received.

(1) Constitutional Qualifications:

Based on the Commission’s investigation, Judge Goldsmith meets the qualifications prescribed by law for judicial service as a Circuit Court judge.

Judge Goldsmith was born in 1942. He is 67 years old and a resident of Lancaster, South Carolina. Judge Goldsmith provided in his application that he has been a resident of South Carolina for at least the immediate past five years and has been a licensed attorney in South Carolina since 1969. He was also admitted to the Georgia Bar in 1970.

(2) Ethical Fitness:

The Commission’s investigation did not reveal any evidence of unethical conduct by Judge Goldsmith.

Judge Goldsmith demonstrated an understanding of the Canons of Judicial Conduct and other ethical considerations important to judges, particularly in the areas of ex parte communications, acceptance of gifts and ordinary hospitality, and recusal.

Judge Goldsmith reported that he has not made any campaign expenditures.

Judge Goldsmith testified he has not:

(a) sought or received the pledge of any legislator prior to screening;

(b) sought or been offered a conditional pledge of support by a legislator;

(c) asked third persons to contact members of the General Assembly prior to screening.

Judge Goldsmith testified that he is aware of the Commission’s 48-hour rule regarding the formal and informal release of the Screening Report.

(3) Professional and Academic Ability:

The Commission found Judge Goldsmith to be intelligent and knowledgeable. His performance on the Commission’s practice and procedure questions met expectations.

Judge Goldsmith described his past continuing legal or judicial education during the past five years as follows:

Conference/CLE Date

(a) S.C. Judicial Conference 08/18/04;

(b) 20th Annual Criminal Law Update 01/21/05;

(c) 3rd Annual Civil Law Update - Part II 01/21/05;

(d) 2005 Circuit Court Judges 05/11/05;

(e) 2005 Orientation School for Judges 07/11/05;

(f) 2005 Annual Judicial Conference 08/24/05;

(g) Annual Meeting (SCDTAA) 11/03/05;

(h) 4th Annual Civil Law Update 01/26/06;

(i) 21st Annual Criminal Law Update 01/27/06;

(j) 20th Circuit Court Judges Annual Conference 05/10/06;

(k) 2006 Annual Judicial Conference 08/23/06;

(l) 2006 Annual S.C. Solicitors Conference 09/24/06;

(m) 22nd Annual Criminal Law Update 01/26/07;

(n) 5th Annual Civil Law Update 01/26/07;

(o) S.C. Circuit Court Judges Annual Conference 05/16/07;

(p) 2007 Annual Judicial Conference 08/22/07;

(q) Annual Meeting (SCDTAA) 11/01/07;

(r) 23rd Annual S.C. Criminal Law Update 01/25/08;

(s) 6th Annual Civil Law Update 01/25/08;

(t) S.C. Circuit Court Judges Annual Conference 05/14/08;

(u) 2008 Annual Judicial Conference 08/20/08;

(v) 7th Annual Civil Law Update 01/23/09;

(w) 24th Annual S.C. Criminal Law Update 01/23/09;

(x) S.C. Circuit Court Judges Annual Conference 05/06/09.

Judge Goldsmith reported that he has taught the following law-related course:

“I lectured at the S.C. Family Court Bench/Bar seminar on December 5, 2003.”

Judge Goldsmith reported that he has not published any books or articles.

(4) Character:

The Commission’s investigation of Judge Goldsmith did not reveal evidence of any founded grievances or criminal allegations made against him. The Commission’s investigation of Judge Goldsmith did not indicate any evidence of a troubled financial status. Judge Goldsmith has handled his financial affairs responsibly.

The Commission also noted that Judge Goldsmith was punctual and attentive in his dealings with the Commission, and the Commission’s investigation did not reveal any problems with his diligence and industry.

(5) Reputation:

Judge Goldsmith reported that his last available Martindale-Hubbell rating was AV.

Judge Goldsmith reported the following military service:

“I served in the United States Army from 1964 to 1966. I received an honorable discharge as First Lieutenant. I am no longer in the service. My military serial was XXX-XX-XXXX.”

(6) Physical Health:

Judge Goldsmith appears to be physically capable of performing the duties of the office he seeks.

(7) Mental Stability:

Judge Goldsmith appears to be mentally capable of performing the duties of the office he seeks.

(8) Experience:

Judge Goldsmith was admitted to the South Carolina Bar in 1969.

He gave the following account of his legal experience since graduation from law school:

(a) I was a member of the law firm of Sutherland, Asbil & Brennan in Atlanta, Georgia from 1969 to 71.

(b) I was a partner in the law firm of Williams, Rushing & Goldsmith from 1971 to 72.

(c) I was a partner in the law firm of Rushing & Goldsmith from approximately 1972 to 75.

(d) I was a partner in the law firm of Thomas, Rushing & Goldsmith & Folks.

(e) I was a partner in the law firm of Thomas, Goldsmith, Folks & Hodges.

(f) I was a partner in the law firm of Goldsmith, Folks & Hodges.

(g) I was a partner in the law firm of Goldsmith, Folks, Khoury & DeVenny.

(h) I was a sole proprietor in the law firm of Brooks P. Goldsmith from 1991 to 2001.

(i) I was a Family Court Judge for the Sixth Judicial Circuit, 2001 to 05.

(j) I have been a resident Circuit Court Judge for the Sixth Judicial Circuit since 2005.

Judge Goldsmith reported that he has held the following judicial offices:

Municipal Judge, City of Lancaster from approximately 1973 to 74. This was an appointed position. The jurisdiction of the court was limited to traffic tickets and other minor criminal violations punishable for up to 30 days or $100.

Judge, Family Court, Sixth Judicial Circuit, from 2001 to 05. Judge, Circuit Court, Sixth Judicial Circuit, from 2005 to the present.

Judge Goldsmith provided the following list of his most significant orders or opinions:

(a) Dorothy J. Mabe v. Larry Mabe (Case No. 2000-DR-46-1068), Order dated March 28, 2003.

This case involved equitable distribution of the marital estate, alimony, transmutation of property owned by the parties prior to the marriage, distribution of proceeds from personal injury accident claim and interpretation of the settlement agreement signed by the parties but disavowed at trial. The Court found, among other things, that the settlement agreement was ambiguous, that neither party had sought legal advice, full financial disclosure had not been made by either party and the Court found the agreement was unenforceable.

(b) Edward E. Wilson v. Bobbie H. Wilson (Case No. 2001-DR-46-730), Order dated January 15, 2004.

This was a marriage of approximately 35 years. This case involved allegations of adultery, which were denied, a fraudulent complaint filed by one of the parties and distribution of the marital estate, including a business owned by the husband. Additional issues involved the argument that the husband’s inherited property had become transmuted. Both parties were drawing social security.

(c) Mary Helen Powell Mazzoli v. Travis Lee Dowdy (Case No. 2004-DR-10-306), heard in Charleston County August 30-September 2, 2004.

This was an action for custody of a 1½-year-old girl. At the beginning of the trial, the mother’s attorney moved to disqualify the father’s attorney on the grounds that said attorney represented the father of another child of the mother in an action against her for custody of that child. The mother was a medical assistant. The father was a firefighter. A psychologist testified on behalf of the mother. The major issue in the case revolved around the mother’s stability and her ability to cope with being brought up in a dysfunctional family and being sexually abused as a child.

(d) Chester County DSS v. Jacqueline Jennings and William Moore, Case No. 2002-DR-12-561, Order dated February 24, 2003.

The Department of Social Services sought custody of an unnamed child that they believed the Defendant Mother had given birth to on unknown date and unknown location. The Mother refused to testify, asserting her rights under the Fifth Amendment. The Mother had not been granted immunity from prosecution and, thus, was not compelled to testify. The Department of Social Services presented substantial evidence of the Mother’s extensive drug abuse over a number of years. The Mother’s rights to two other children had been terminated in separate proceedings. The Court granted to the Department of Social Services, custody of an unknown child born to the named Defendant, Mother, during a specified time frame.

(e) April D. Enos v. John Doe and Travelers Indemnity Insurance Co., 669 S.E.2d 619 (Ct. App. 2008)

Enos became intoxicated at a bar and got in her car to go to sleep. Rescue personnel found Enos in her vehicle at another location. The vehicle had apparently been wrecked and she had been injured. She had no recollection of the accident. Enos brought an action against John Doe seeking uninsured motorist coverage alleging that an unknown driver drove her car into a bridge while she was a passenger. The statute in question requires that for an insured to prevail, there must be an affidavit submitted by a witness other than the owner or operator of the insured vehicle, attesting to the facts of the accident. Enos argued that the legislature did not intend to require affidavits in single vehicle accidents and that the statute should be liberally construed. The Court dismissed the Plaintiff's cause of action finding that the statute was clear and unambiguous. This decision was affirmed by the Court of Appeals.

Judge Goldsmith reported the following regarding his employment while serving as a judge:

“When I was a Municipal Court Judge, I was a partner in the law firm of Rushing & Goldsmith from 1973-74 as a practicing attorney.”

(9) Judicial Temperament:

The Commission believes that Judge Goldsmith’s temperament has been and would continue to be excellent.

(10) Miscellaneous:

Judge Goldsmith is married to Laura Jane Porter Goldsmith. He has one child.

Judge Goldsmith reported that he was a member of the following bar associations and professional associations:

South Carolina Bar Association.

Judge Goldsmith provided that he was not a member of any civic, charitable, educational, social, or fraternal organization.

**The Piedmont Citizens Advisory Committee found Judge Goldsmith to be “Well-Qualified” for each of the nine evaluative criteria: constitutional qualifications, ethical fitness, professional and academic ability, character, reputation, physical health, mental stability, experience, and judicial temperament.**

(11) Commission Members’ Comments:

The Commission commented that Judge Goldsmith has a good reputation as a jurist and has ably discharged his responsibilities in both the Family and Circuit Courts.

(12) Conclusion:

The Commission found Judge Goldsmith qualified and nominated him for re-election to the Circuit Court.

**Frank Robert Addy, Jr.**

**Circuit Court, Eighth Judicial Circuit, Seat 1**

**Commission’s Findings: QUALIFIED AND NOMINATED**

(1) Constitutional Qualifications:

Based on the Commission’s investigation, Judge Addy meets the qualifications prescribed by law for judicial service as a Circuit Court judge.

Judge Addy was born in 1967. He is 42-years old and a resident of Greenwood, South Carolina. Judge Addy provided in his application that he has been a resident of South Carolina for at least the immediate past five years and has been a licensed attorney in South Carolina since 1993.

(2) Ethical Fitness:

The Commission’s investigation did not reveal any evidence of unethical conduct by Judge Addy.

Judge Addy demonstrated an understanding of the Canons of Judicial Conduct and other ethical considerations important to judges, particularly in the areas of ex parte communications, acceptance of gifts and ordinary hospitality, and recusal.

Judge Addy reported that he has made $857.31 in campaign expenditures for postage, paper, envelopes, business cards, and a name badge.

Judge Addy testified he has not:

(a) sought or received the pledge of any legislator prior to screening;

(b) sought or been offered a conditional pledge of support by a legislator;

(c) asked third persons to contact members of the General Assembly prior to screening.

Judge Addy testified that he is aware of the Commission’s 48-hour rule regarding the formal and informal release of the Screening Report.

(3) Professional and Academic Ability:

The Commission found Judge Addy to be intelligent and knowledgeable. His performance on the Commission’s practice and procedure questions met expectations.

Judge Addy described his past continuing legal or judicial education during the past five years as follows:

Conference/CLE Name Date

(a) 11th Annual Probate Bench/Bar 09/12/03;

(b) 55th Annual S.C. Assoc. of Probate Judges Conf. 09/21/03;

(c) Probate Judges’ Legislative Conference 02/02/04;

(d) S.C. Assoc. Probate Judges, SCAC Conf. 08/05/04;

(e) S.C. Trial Lawyers Assoc. Conf. 08/05/04;

(f) Judicial Oath of Office 08/19/04;

(g) 12th Annual Probate Bench/Bar 09/17/04;

(h Greenwood Bar – Revised Oath and Bar CLE 09/30/04;

(i) 56th Annual S.C. Assoc. of Probate Judges Conf. 10/10/04;

(j) 2004 S.C. Bar Convention 01/21/05;

(k) Probate Judges’ Legislative Conference 02/28/05;

(l) 2005 Probate Judges/Court 05/06/05

(m) 13th Annual Probate Bench/Bar 09/16/05;

(n) 57th Annual S.C. Assoc. of Probate Judges Conf. 09/21/05;

(o) 2006 S.C. Bar Convention 01/27/06;

(p) S.C. Trial Lawyers Assoc. Conf. 08/03/06;

(q) S.C. Assoc. of Judges, SCAC Conf. 08/04/06;

(r) 14th Annual Probate Bench/Bar 09/15/06;

(s) 58th Annual S.C. Assoc. of Probate Judges Conf. 10/04/06;

(t) 2007 S.C. Bar Convention 01/25/07;

(u) Probate Judges’ Legislative Conference 02/13/07;

(v) Orientation School for New Probate Judges 03/15/07;

(w) 59th Annual S.C. Assoc. of Probate Judges Conf. 09/09/07;

(x) 15th Annual Probate Bench/Bar 09/14/07;

(y) 2008 S.C. Bar Convention 01/25/08;

(z) Probate Judges’ Legislative Conference 02/05/08;

(aa) 16th Annual Probate Bench/Bar 09/14/08;

(bb) Judicial Selection in S.C. – S.C. Bar, SCWLA 09/17/08;

(cc) 2008 S.C. Solicitor’s Association Conference 09/28/08;

(dd) S.C. Assoc. of Probate Judges Fall Conference 10/05/08;

(ee) S.C. Bar Association Annual Convention 01/23/09;

(ff) Probate Judges’ Legislative Conference 02/24/09;

(gg) 16th Annual Probate Bench/Bar 09/11/09;

(hh) 2009 S.C. Solicitor’s Conference 09/27-09/30/09;

(ii) 61st Annual SCAPJ Conference 10/18-10/21/09.

Judge Addy reported that he has taught the following law-related courses:

(a)“Dual Diagnosis” October 9, 2001

South Carolina Association of Probate Judges

Presentation addressing the problematic practical and procedural issues concerning stabilization and treatment of individuals who are mentally ill and also chemically dependent.

(b)“New Probate Judge’s School”

S.C. Court Administration & SCAPJ, January 10, 2003 & March 15, 2007

Planned topics, organized speakers and materials, and moderated the 2003 New Probate Judge’s School. Personally addressed the topics of ethics and estate taxation at the 2003 and 2007 schools.

(c) “Therapeutic Commitments – Jurisdictional Issues and Supplemental Proceedings”

South Carolina Association of Probate Judges, August 6, 2004

Lecture on the jurisdictional validity of commitment orders throughout the state and between states with additional discussion of supplemental proceedings when the person is non- compliant with the court’s order.

(d) “General Probate Issues”

Greenwood County Bar, September 30, 2004

Presentation was geared to the general practice lawyer who only occasionally practiced in probate and addressed the procedural aspects of a variety of common problems. Lecture included a discussion of recent changes in the law, disclaimers, omitted spouse vs. elective share petitions, conservatorships, wrongful death settlements, limitations of actions, and other matters.

(e) “Creditor’s Claim Presentment in the Probate Court”

S.C. Morticians Assoc., October 24, 2004

Presentation concerned the procedures law for presenting a claim against a decedent’s estate.

(f) 13th Annual Probate Bench/Bar, Course Planner and Moderator

S.C. Bar CLE Division, September 16, 2005

I planned and moderated the 2005 Bench/Bar and was subsequently told that the attendance for the event surpassed all previous probate bench/bar conferences.

(g) “Temporary and Emergency Measures in Probate Proceedings”

S.C. Association of Probate Judges, September 25, 2005

Procedural overview of Rule 65, SCRCP, governing temporary injunctions as compared to Section 62-3-607 governing emergency orders in the estate context and 62-5-310 governing appointment of emergency temporary guardians.

(h) “The Probate Process and Presentation of Creditor’s Claim in South Carolina’s Probate Courts”

South Carolina Oncology Association, May 18, 2006

Presentation was a procedural overview of the process for probating an estate, presenting claims against an estate, and explanation of the time limits involved in both.

(i) “Roundtable Discussion”

South Carolina Association of Probate Judges, August 4, 2006

Served as a panel member and discussed hypothetical situations applicable to the courts.

(j) “Recent Issues in the Probate Court”

Greenwood County Bar, February 23, 2007

Presentation discussed the recent *Franklin* and *Brown* opinions concerning the unauthorized practice of law in the probate context and also addressed competency issues when a lawyer feels is client may be suffering from Alzheimer’s dementia.

(k) “Probate Potluck – Round Table Discussion”

S.C. Association of Probate Judges, September 12, 2007

Served as a panel member and discussed various probate topics and problems.

(l) “Involuntary Mental Illness Commitments”

S.C. Summary Court Judges Assoc., May 6, 2008

Presentation concerned the procedural and substantive law concerning involuntary commitments of persons suffering from mental illness and chemical dependency.

(m) “Caring for Our Aging Parents”

Women’s Forum, GCC, April 1, 2009

Presentation regarding issues surrounding caring for aging parents who are experiencing decreased mental or physical capacity.

(n) “Motion Sickness”

SCAPJ, October 9, 2009

This presentation addressed the application of the S.C. Rules of Civil Procedure to the probate courts and covered topics such as pleadings and the recent *Gause* case, summary judgment, discovery abuses and sanctions, and relief under Rule 55 as opposed to Rule 60.

Judge Addy reported that he has published the following:

Probate Bench Book

“I coordinated the compilation and editing of this book and the final version is due to be released to the Probate Judge’s Advisory Committee and Court Administration. The book addresses all aspects of the court’s jurisdiction and procedures as well as substantive law.”

(4) Character:

The Commission’s investigation of Judge Addy did not reveal evidence of any founded grievances or criminal allegations made against him. The Commission’s investigation of Judge Addy did not indicate any evidence of a troubled financial status. Judge Addy has handled his financial affairs responsibly.

The Commission also noted that Judge Addy was punctual and attentive in his dealings with the Commission, and the Commission’s investigation did not reveal any problems with his diligence and industry.

(5) Reputation:

Judge Addy reported, “I am not rated in Martindale-Hubbell, although there is a brief ‘Judge Profile’ for me on their online listing. Having been a judge for the last ten years, I have never sought a Martindale-Hubbell rating since my current occupation does not depend upon client referral.”

(6) Physical Health:

Judge Addy appears to be physically capable of performing the duties of the office he seeks.

(7) Mental Stability:

Judge Addy appears to be mentally capable of performing the duties of the office he seeks.

(8) Experience:

Judge Addy was admitted to the South Carolina Bar in 1993.

He gave the following account of his legal experience since graduation from law school:

(a) Eighth Circuit Solicitor’s Office

September, 1993 – February, 1997

Prosecuted all types of felony and misdemeanor cases, including homicide and serious felonies.

Promoted to Deputy Solicitor for Abbeville County during my tenure and successfully reduced Abbeville’s pending docket from roughly 20 pages to 6 over the course of approximately 2½ years.

(b) Sheek, Addy & Medlock, PA

March, 1997 – February, 1998

Upon passing of my father, I engaged in general private practice including personal injury, domestic, and criminal cases.

(c) Chief Public Defender for Greenwood and Abbeville Counties

February, 1998 – June, 1999

Responsible for defending clients charged in general sessions as well as juvenile court. Oversaw operation of the office and defended all manner of criminal cases.

(d) Probate Judge for Greenwood County

June, 1999 – Present

Responsible for contested civil hearings concerning all aspects of the court’s jurisdiction: estates, trusts, protective proceedings, and therapeutic commitments. Managed the case docket and successfully reduced delinquency in pending cases.

Served as Special Referee over the years for common pleas matters referred to me for trial or hearing.

(e) Greenwood County Clerk of Court

June, 2003 – August, 2003

Upon the retirement of Greenwood’s clerk of court and pursuant to state law, I assumed the role of acting clerk of court until the Governor made his appointment.

(f) Circuit Court Judge by Special Appointment of Chief Justice

September, 2006 – November, 2007

Presided over eleven (11) terms of circuit court by special appointment of the Chief Justice while Greenwood’s resident judge was recovering from cancer. Presided over jury trials, guilty pleas, probation violations, motions, and addressed matters on the civil docket as well.

(g) Special Referee

I have served as Special Referee numerous times over the years for common pleas matters referred to me for trial or hearing. Jurisdiction was limited to trying the cases specifically referred to me.

(h) Judge of the Eighth Circuit Drug Court

August 2008 – Present

Appointed by the Chief Justice on August 18, 2008, to serve as judge for the Eighth Circuit Adult Drug Court program. Will preside over and supervise drug court participants throughout their participation in the program, from accepting their guilty plea to completion of or termination from the program. Worked with Solicitor in establishing the program and crafting the model.

Judge Addy further reported:

My experience in circuit court is unique among the candidates seeking this seat.

For two years, I served as circuit judge by order of special appointment while our resident circuit judge was recovering from cancer. In that time, I presided over guilty pleas, jury trials, motions, bond hearings, and probation revocations. In short, I have essentially handled same matters which come before a circuit judge on a daily basis. The unsolicited and discretely obtained feedback I received concerning my performance during this period was overwhelmingly positive.

Prior to my election to the bench, I was an assistant and deputy solicitor for roughly four (4) years and chief public defender for two (2) years. While serving as Deputy Solicitor, I successfully brought the pending case docket for the county I supervised down from over twenty (20) pages to fewer than six (6) pages. My desire and ability to move a backlogged docket, and then to keep the cases moving, would be of significant value on the civil side.

I have prosecuted and defended homicides, including death penalty, and I obtained a conviction on one if the first LWOP cases brought to trial. I have prosecuted or defended, in trial and via guilty plea, practically every criminal offense known, including rapes, drug offenses, assaults, robberies, and burglaries.

Concerning the civil matters which a circuit judge must hear and the civil docket which a circuit judge must administer, I have served as probate judge since 1999, and the trials in probate court require me to apply the same rules of evidence and procedure as are applied in the court of common pleas. Estate and trust matters involve application of the same principals of law and equity which apply in any civil case, and the stakes involved in most of the trials I hear are exceedingly high for the parties. In addition to complex and contested litigation concerning trusts and estates, I preside over often emotional cases concerning guardianships, conservatorships and involuntary commitments. I know that compassion is a necessary and invaluable characteristic for a judge, and I make every effort to render well-reasoned, thoughtful, and thorough decisions in all the cases I hear, regardless of the amount in controversy or the emotional context of the litigation.

Just as a circuit judge must run the civil docket, as judge for my court, I must also supervise my court’s docket, keep cases moving, and ensure that matters under my supervision are addressed in a fair and procedurally correct manner. In short, as judge for my court, I have the same responsibility for case and docket management as circuit judges do for their court, and I will be able to immediately apply my ten (10) years of experience to management of the civil docket.

Additionally, I have served as special referee for non-jury matters and hearings referred to me from the circuit court docket. These hearings require application of the same rules of civil procedure and the same principals as are applied under the circuit court’s civil jurisdiction.

I also served as acting clerk of court upon the retirement of Greenwood’s clerk. Many might characterize this job as purely ministerial, but I gained an appreciation for the inner workings of that office and the incredible management skills necessary to keep that office running. Our clerks of court are an indispensable asset to our courts, and no aspect of the law would function without their efforts.

Like most lawyers, I have also been in private practice, so I appreciate the demands on a lawyer’s time, the pressures of running an office, and the stresses and obligations that lawyers face on a daily basis. While in private practice, my firm’s practice area could best be described as general practice, handling civil, criminal, family and summary court cases. Although circuit judges must sometimes be firm with attorneys so that a docket keeps moving, judges should also have an appreciation for the rigors, demands, and stresses of private practice.

I have a judicial philosophy which has served me well for the last ten (10) years. A good judge is one who remains firm, yet retains compassion and empathy for the parties. One of the benefits in working with the public throughout my legal career is that I understand and truly appreciate that every case is special, emotional, and unique for those involved. For example, what one might characterize as “a simple wreck case” may only involve a few thousand dollars of damages, but for most citizens, the outcome of such a case is of significant importance to them, regardless of whether they are plaintiff or defendant. I fully appreciate the emotional character involved in most litigation, and for courts to remain credible to the public, the parties must feel that the court gave their side a full and fair hearing, decisions rendered must be correct and free of bias or political consideration, and most importantly, the court’s verdict must represent a proper application of the law, as written, to the particular factual scenario. Judicial activism invites uncertainty for the parties and results in disparate application of the law from judge to judge.

I firmly believe that courts and judges face a public confidence problem when the law is not applied as written, when parties feel as if they did not have a full opportunity to be heard, or whenever a judge’s decision appeared to be swayed by political considerations. Judges must also possess the demeanor necessary to treat all who come before them with patience and respect, and such character must be present, practiced, and demonstrated daily.

In conclusion, my varied judicial and professional experience and my judicial demeanor have prepared me well for this position.

Judge Addy reported the frequency of his court appearances prior to his service on the bench as follows:

(a) Federal: 0%;

(b) State: 100%;

(c) Other: N/A.

Judge Addy reported the percentage of his practice involving civil, criminal, and domestic matters prior to his service on the bench as follows:

(a) Civil: 25%;

(b) Criminal: 65%;

(c) Domestic: 10%.

Judge Addy reported the percentage of his practice in trial court prior to his service on the bench as follows:

(a) Jury: 10%;

(b) Non-jury: 90%.

He further reported: “I answer this question based upon the general period before I was elected to the bench. Although many probate cases go to trial, they are usually non-jury, and the most recent jury trials I oversaw were conducted when I served as circuit judge by appointment.

Judge Addy provided that prior to his service on the bench he most often “served as sole counsel for the vast majority of his cases.”

The following is Judge Addy’s account of his five most significant litigated matters:

(a) State v. Darvin Wayne Allen (1999 Death Penalty case) This was a death penalty case wherein I represented the defendant. This case was challenging from a defense point of view in that the homicide happened several years before Allen and his co-defendants were identified as suspects, and it was the co-defendants who gave inconsistent statements identifying Allen as the shooter. The police charged Allen subsequent to Allen being convicted of armed robbery of a Pizza Hut; that case involved several of the co-defendants who were alleged to be involved in the homicide.

Because of attorney-client privilege, I am not at liberty to discuss the factual information or legal preparation involved in this case. Suffice it to say, however, that our work in terms of investigation, research, and trial strategy was extensive and fruitful. I am certain that the first motion we made would have resulted in reversal on appeal had Allen been convicted.

Due to the strength of our preparation and despite previous resistance on the part of the victims and others to any plea which contemplated Allen’s potential release from prison, we were able to obtain a favorable 20 year negotiated life plea for Allen early in the guilt phase, which was a positive result in light of the high potential for a verdict of death (assuming a conviction in the guilt phase).

(b) State v. Keith A. Scurry, 322 S.C. 514, 473 S.E.2d 61 (S.C. App. 1996) (Armed Robbery case – made new case law and resulted in statutory law change) Armed robbery case which I prosecuted with only a few hours of preparation time (the solicitor assigned the case had an unexpected death in the family). Defendant robbed a convenience store with a lug wrench which he hid under a towel. The victim testified that she thought the concealed lug wrench was a gun. The defendant testified he brought the lug wrench into the store in the event he had to pry the cash register open. The defendant was convicted of armed robbery. The trial judge, *sua sponte*, vacated the conviction and imposed a conviction for common law robber under the justification that the defendant never intended to use the lug wrench as a deadly weapon. I sufficiently protected the record and appealed. The court’s order was vacated and the sentence for armed robbery was imposed.

This case also resulted in my contacting my local legislator who, with my encouragement, filed a bill to address situations in the armed robbery statute whereby a defendant would use a fake gun or verbally inform the victim that the defendant is armed with a deadly weapon. This bill was introduced and ultimately signed into law which changed the definition of armed robbery to specifically include representations of a deadly weapon, by word or by appearance.

(c) Wallace v. Roach et al., *In Re the Estate of John C. Wallace* 01-ES-24-428 (Statute of Elizabeth, real property, and equitable issues) This case concerned an effort by judgment creditors to set aside a series of arguably defective deeds involving real property which the judgment creditors maintained had been executed in violation of the Statute of Elizabeth. The defendant had misappropriated proceeds from the consignment sale of several RV’s from numerous defendants. The property he owned had been arguably held in a trust of questionable validity prior to the subsequent transfers. The case, therefore, required application of complex real property law and equitable principals because of the number and questionable character of the transactions, and the outcome turned upon whether an express or resulting trust had been created as well as application of principals of real property law and equitable doctrines.

(d) Carol Scurry v. R. Brooks Scurry, Jr. et al*,*, *In Re the Estate of R. Brooks Scurry, Sr.* 98-ES-24-357 (2000) (Complex estate litigation) This case concerned a $5 million federally taxable estate and a Will with a very complex funding formula for the various trusts. The issues surrounding the litigation concerned contractual duress, reformation of a Will, proper funding of generation skipping trusts, a marital deduction trust and the right to withdrawal, attorney’s fees, right to contribution for a mortgage, removal of trustee, as well as other issues. This matter could have been certified as “complex litigation” if such a designation existed in the estate context.

(e) State v. Willie James Ervin (One of the first applications of LWOP law) (1996) Co-counsel and I prosecuted this case which concerned the violent rape and kidnapping of a young woman by an individual who had a New Jersey conviction for rape, thereby making him eligible under the recently enacted LWOP statute. *See* Section 17-25-45. The charges arose shortly after South Carolina’s adoption of the 2-3 Strike law which allows for the Solicitor to seek life imprisonment without parole for such defendants. This case was one of the first cases wherein this new penalty was applied, and a great deal of work was done both to obtain the conviction as well as to prove application of out-of-state law. The defendant remains in prison on the kidnapping charge. State v. Ervin, 333 S.C. 351, 510 S.E.2d 220 (S.C. App. 1998).

Judge Addy reported that he has not personally handled any civil appeals.

The following is Judge Addy’s account of criminal appeals he has personally handled:

“Aside from filing the notice of appeal in State v. Scurry, I have not personally handled a criminal appeal.”

Judge Addy reported that he has held the following judicial offices:

(a) Acting Circuit Court Judge

September 2006 – November 2007

Presided over eleven (11) terms of circuit court by special appointment of the Chief Justice (see question 2 of Personal Data Questionnaire Addendum for listing of specific terms of court). As a court of general jurisdiction, I presided over general sessions jury trials, guilty pleas, probation violations, motions, and addressed matters on the civil docket as needed or requested.

(b) Probate Judge for Greenwood County

June, 1999 – Present

Appointed in June 1999. Subsequently reelected without opposition in 2000, 2002, and 2006

Responsible for contested civil hearings concerning all aspects of the court’s jurisdiction under Section 62-1-302 (Supp. 2005): decedent’s estates, trusts, Article 5 protective proceedings, and therapeutic commitments under Title 44.

(c) Special Referee

I have served as Special Referee numerous times over the years for common pleas matters referred to me for trial or hearing. Jurisdiction was limited to trying the cases specifically referred to me.

(d) Drug Court Judge, Eighth Circuit Adult Drug Court

Appointed in August 2008, and I gladly serve without compensation.

Responsible for accepting guilty pleas, supervising, and presiding over all participants in the adult drug court program. Please note that I intend to continue serving as drug court judge regardless of the outcome of my candidacy for seat 1. I am extremely pleased with the way the Eighth Circuit Drug Court program is helping addicts break the cycle of addiction, and I am proud to be a part of this effort.

Judge Addy provided the following list of his most significant orders or opinions:

(a) Wrenn, et al. v. Gillenwater, In Re the Estate of Janelle B. Smith, 06‑ES‑24‑4 (September 12, 2008) This was a constructive trust case, and I provide it largely because it is the most recent example of my legal writing and because it clearly demonstrates the restraint a judge must exercise when hard facts invite a judge to question or misapply the law. This matter was a difficult case in that the facts cried out for a result which simply was not permitted under the law.

(b) Walker v. McLeod, et al. 03-CP-24-1513 (December 30, 2005) I provide this order as an example of an order from a matter I handled as Special Referee. The case concerned a motion to set aside default and a damages hearing. Defendants acted *pro se*, but the case is significant in that, after a full hearing at trial, it became apparent that the plaintiff had exaggerated the relief he was entitled to under a contract between himself and the defendants. This case represents a good example of how a disingenuous party may, at times, attempt to procedurally box-in a defendant, and courts should not permit a party to profit by their less than candid assertions prior to litigation.

(c) Matthews v. Bryan, et al., *In Re the Estate of Kay Matthews*, 02-ES-24-22 This case involved a partition action and a petition to set aside a deed. I heard this case both as special referee under the jurisdiction of common pleas and as probate judge under the court’s Title 62 jurisdiction. The plaintiff was the second spouse of decedent. This was an emotional case for the parties, largely because of criminal accusations involving the plaintiff and one of the defendant’s children. Defendants were seeking partition of property which had been deeded out of their mother’s estate and held as tenants in common between plaintiff and defendants. Plaintiff sought to set aside the deed to pay estate administrative expenses. Also involved in this case were issues of personal property, accounting for expenses, and valuation of estate assets.

(d) Wallace v. Roach, et al., *In Re the Estate of John C. Wallace* (see Question 19 (c) for discussion of case)

(e) State v. Jane Blackwell (2007 “Ware Shoals High Cheerleading Scandal” – case concerned competing concepts of legal ethics, first amendment, and media access): This case was a very high profile case with a great deal of national media attention. Imposition of a gag order is rarely done. In this case, it was necessary to preserve the integrity of the process and to prevent one party from trying the case in the media to the detriment of the other parties and the court system.

Factually, the case concerned the cheerleading coach of Ware Shoals High School, Moore, who had allegedly provided alcohol to her cheerleaders and facilitated inappropriate sexual encounters between them and two National Guard recruiters. Blackwell was the principal who allegedly knew of the improprieties and attempted to cover them up.

Media attention on this case was very intense and lasted for several months after the story initially broke. Agents for the state and an attorney for Blackwell actively forwarded a great deal of information into the press concerning the allegations, subsequent investigations, and defenses. A member of Blackwell’s defense team was arguably more active in allowing or encouraging media access to his client’s case; he did have an arguable justification under Rule 3.6 (c) of Rule 407, SCACR. However, much of the recent information entering the media by Blackwell’s counsel was very prejudicial to Moore, who had not been seeking media attention. In short, although the information was beneficial to one defendant, it was damaging to the other parties involved.

The solicitor ultimately moved for a gag order on the grounds that the information being circulated by counsel for Blackwell would prejudice the jury pool in both Moore’s and Blackwell’s case. Many members of the print and television media were present for the hearing, and several news organizations entered an appearance and intervened opposing the motion. After weighing the potential prejudice to the parties, applicable 1st Amendment rights, and the ethical obligation of counsel, I granted the motion finding that the pretrial publicity posed a substantial likelihood of prejudice to all concerned parties. (Note that only the parties and their counsel were prevented from speaking to the media; the media, of course, was not subject to the order.)

Aside from the *Allen* case mentioned above, this was the second high-profile case I have handled, although I neither seek nor relish such publicity.

Judge Addy further reported the following regarding an unsuccessful candidacy:

“In January 2009, I was found qualified and nominated for Seat 2 of the Eighth Judicial Circuit by the JMSC. I withdrew from the race in early February 2009 so that Judge Eugene ‘Bubba’ Griffith could be elected without opposition.”

(9) Judicial Temperament:

The Commission believes that Judge Addy’s temperament has been and would continue to be excellent.

(10) Miscellaneous:

Judge Addy is married to Kelly Sprouse Addy. He has two children.

Judge Addy reported that he was a member of the following bar associations and professional associations:

(a) South Carolina Bar Association, 1993 - present;

(b) President, S.C. Association of Probate Judges, 2005-06;

(c) S.C. Association of Probate Judges, 1999 – present;

(d) Chairman, Advisory Committee to the Chief Justice, 2001-03;

(e) Co-Chair of S.C. Bar Probate Code Revision Committee, Article 3, 2009.

Judge Addy provided that he was a member of the following civic, charitable, educational, social, or fraternal organizations:

(a) Cub Scout Pack 222, den leader since 2005

(b) IAAP Executive of the Year, 2003;

(c) Greenwood Masonic Lodge AFM #91 (since 1998);

(d) High School Moot Court Coach;

(e) Links at Stoney Point (social and pool membership);

(f) Greenwood Country Club (social, pool and tennis membership).

Judge Addy further reported:

I would like to share the reason that I have elected to file for this position. First, I am not running for this position out of a desire for prestige, money, power, or to otherwise better my personal station. My current judicial position more than adequately meets my personal, financial, and professional needs, and I have deliberated seriously on the implications for my family and myself in seeking this seat, because success in this endeavor would mean less freedom, a more exacting schedule, and substantial time away from my family.

My faith is very personal to me, and for that reason, I hesitate mentioning it, but being a person of faith I am running because I firmly believe that everyone is blessed with certain talents which are unique to that individual and that our obligation in this life is to apply those talents to our community’s common betterment, in service to man and to our maker. Overall, I have enjoyed being a judge and practicing law, and I am confident that my unique talents and varied personal and professional experiences would serve the bench well.

Not only have I previously served in virtually all legal capacities in the circuit court, I have had a wide variety of other jobs which gives me insight into other occupations. I have trucked vinyl siding and worked in a warehouse; I traded bonds at one bank and processed cancelled checks at another; I have worked for an asbestos manufacturer and in a retail family business.

When my father passed away in 1997, I was still rather young. He and my grandparents owned a very successful retail jewelry store in Greenwood, and much of my youth was spent behind the counter of that store. At the time of my father’s death, I was a Deputy Solicitor earning a very good income and truly enjoying prosecuting cases, so I did not relish having to leave and help my family with the store. If I made one mistake in this time period, it was in believing that I could practice law and help run a jewelry store at the same time; the law is truly a jealous mistress. However, leaving was not a mistake, and I am glad I did what I did, both because I fulfilled an obligation, and because leaving set me on the path to seek this seat.

My greatest personal mentor was my father. My father was a very humble but fun man blessed with incredibly good judgment about things, and he gave me two pieces of advice which I value. First, do what you love. There is no reason to spend a third of your life working in a job you hate. Luckily, I enjoy the intellectual demands of being a judge, applying the law, and working with lawyers and the public to resolve their problems. I couldn’t imagine doing anything else.

Second, “move your inventory.” This is the most practical and true piece of professional advice I have ever received. You cannot make money in retail if your inventory doesn’t sell. Similarly, courts break down if they can’t move their cases. Docket backlogs have many causes, some of which are legitimate, but judges must consistently do everything they can to keep cases moving. Just as my father and grandparents succeeded in business because they succeeded in moving their inventory, a measure of a judge’s success can be gauged by how well that judge manages to move their cases.

I have always had the utmost respect for the late Judge Jim Johnson. He presided over the first complete trial I ever saw, and I remain in awe of his intellect, demeanor, and diligence. He and Jim Moore are my professional role models, and I hope that I may continue to serve and someday match their abilities.

**The Piedmont Citizens Advisory Committee found Judge Addy to be “Well-Qualified” for each of the nine evaluative criteria: constitutional qualifications, ethical fitness, professional and academic ability, character, reputation, physical health, mental stability, experience, and judicial temperament. The committee noted that Judge Addy “is highly regarded for his professional and academic ability, character and reputation. He already has experience as a judge, and the Committee believes his judicial temperament will be excellent. We find Mr. Addy well qualified for the office he is seeking. The decision of the Committee was unanimous.”**

(11) Commission Members’ Comments:

The Commission commented that Judge Addy is very intelligent and has an outstanding reputation, which would equip him well on the Circuit Court. The Commission also noted that Judge Addy has ably served as a Probate Court Judge for ten years, as well as an Acting Circuit Court Judge for 11 Circuit Court terms.

(12) Conclusion:

The Commission found Judge Addy qualified and nominated him for election to the Circuit Court.

**Bryan C. Able**

**Circuit Court, Eighth Judicial Circuit, Seat 1**

**Commission’s Findings: QUALIFIED, BUT NOT NOMINATED**

(1) Constitutional Qualifications:

Based on the Commission’s investigation, Mr. Able meets the qualifications prescribed by law for judicial service as a Circuit Court judge.

Mr. Able was born in 1961. He is 48 years old and a resident of Laurens, South Carolina. Mr. Able provided in his application that he has been a resident of South Carolina for at least the immediate past five years and has been a licensed attorney in South Carolina since 1987.

(2) Ethical Fitness:

The Commission’s investigation did not reveal any evidence of unethical conduct by Mr. Able.

Mr. Able demonstrated an understanding of the Canons of Judicial Conduct and other ethical considerations important to judges, particularly in the areas of ex parte communications, acceptance of gifts and ordinary hospitality, and recusal.

Mr. Able reported that he has not made any campaign expenditures.

Mr. Able testified he has not:

(a) sought or received the pledge of any legislator prior to screening;

(b) sought or been offered a conditional pledge of support by a legislator;

(c) asked third persons to contact members of the General Assembly prior to screening.

Mr. Able testified that he is aware of the Commission’s 48-hour rule regarding the formal and informal release of the Screening Report.

(3) Professional and Academic Ability:

The Commission found Mr. Able to be intelligent and knowledgeable. His performance on the Commission’s practice and procedure questions met expectations.

Mr. Able described his past continuing legal or judicial education during the past five years as follows:

Conference/CLE Name Date

(a) Blues, Bar-B-Q, and Bar C-L-E 07/11/08;

(b) Handling the Auto Injury Claim 06/20/08;

(c) Handling a Social Security Disability Case 06/17/08;

(d) A Successful Law Practice 05/19/06;

(e) 2nd Annual Blues, Bar-B-Q and 07/14/06;

(f) 2006 Public Defenders Conference 09/25/06;

(g) Blues, Bar-B-Q, and Bar C-L-E 06/15/05;

(h) 2005 S.C. Public Defender Conference 09/26/05;

(i) South Carolina Family Ct. Bench/Bar 12/2/05;

(j) SCDSS-OGC CLE Seminar 9/17/04;

(k) Hot Tips from the Coolest Domestic 9/24/04;

(l) Greenwood County Bar Seminar 9/30/04;

(m) Revised Lawyers Oath CLE 9/24/04.

Mr. Able reported that he has not taught or lectured at any bar association conferences, educational institutions, or continuing legal or judicial education programs.

Mr. Able reported that he has not published any books or articles.

(4) Character:

The Commission’s investigation of Mr. Able did not reveal evidence of any founded grievances or criminal allegations made against him. The Commission’s investigation of Mr. Able did not indicate any evidence of a troubled financial status. Mr. Able has handled his financial affairs responsibly.

The Commission also noted that Mr. Able was punctual and attentive in his dealings with the Commission, and the Commission’s investigation did not reveal any problems with his diligence and industry.

(5) Reputation:

Mr. Able reported that his Martindale-Hubbell rating is BV.

(6) Physical Health:

Mr. Able appears to be physically capable of performing the duties of the office he seeks.

(7) Mental Stability:

Mr. Able appears to be mentally capable of performing the duties of the office he seeks.

(8) Experience:

Mr. Able was admitted to the South Carolina Bar in 1987.

He gave the following account of his legal experience since graduation from law school:

(a) Culbertson, Whiteside & Turner–Associate 1987-91–General Practice;

(b) Culbertson, Whiteside, Turner & Able–Partner–1991-96 General Practice;

(c) Contract Attorney for the South Carolina Department of Social Services 1992 - September 2004;

(d) Turner & Able–Partner–1996-99–General Practice;

(e) Turner, Able and Burney–Partner–2000-01–General Practice;

(f) Bryan C. Able, Attorney at Law–2001 to present–General Practice;

(g) Assistant Laurens County Public Defender - 2005-06.

Mr. Able further reported:

Over the past 22 years I have handled all aspects of criminal cases from beginning to jury verdict. I have attended preliminary hearings, negotiated with solicitors, prepared for trial, tried cases to jury verdicts and perfected appeals. In that time I have represented defendants charged with murder, assault and battering of a high and aggravated nature, unlawful carrying of a pistol, grand larceny more than $5,000.00, lynching, burglary, criminal domestic violence of high and aggravated nature, criminal sexual conduct, kidnapping, resisting arrest, possession of unlawful handgun, forgery, possession of illegal video gaming machine, operating a gaming house, unlawful conduct toward a child, unlawful neglect by a legal guardian, impersonating a law enforcement officer, financial transaction card theft, malicious damage to personal property, armed robbery, disseminating obscenity, contributing to the delinquency of a minor, pointing and presenting a firearm, breaking in vehicles, distribution of crack cocaine, distribution of crack cocaine within proximity of a school or park, criminal conspiracy, breach of trust with fraudulent intent, failure to stop for law enforcement officer, possession of a stolen vehicle, distribution of a controlled substance, presenting a forged document, possession with intent to distribute marijuana, passion with intent to distribute marijuana with in proximity of a school, filing a false police report, conspiracy to hunt turkeys, DUI 2nd offence and greater, possession of methamphetamines, receiving stolen goods, and arson. This list is representative and does not completely list all the types of cases I have handled in criminal court. Over the past five years I have handled in excess of 100 General Sessions Court cases.

As for my experience in civil court I have handled cases from the filing of initial pleadings through appeal. While handling civil cases I have prepared and filed pleadings, filed and argued pretrial motions, engaged in every form of pretrial discovery, interviewed clients and witnesses, prepared cases for trial, researched the issues of the case, tried cases, researched appealed issues and prepared and filed appellate briefs. During that time I have handled civil cases involving slip and fall, actions to set aside foreign judgments, personal injury (accident claims), wrongful death, medical malpractice, fraud, negligent misrepresentation, unfair trade practices, malicious prosecution, unlawful arrest, intentional infliction of emotional distress, property line disputes, claim and delivery, assault and battery, collection of debts, action to set aside deeds, Probate Court Appeals, Zoning Board Appeals, Post Conviction Relief Applications and other issues. I have represented both Plaintiffs and Defendants in civil court.

Mr. Able reported the frequency of his court appearances during the past five years as follows:

(a) federal: 0%;

(b) state: 100%.

Mr. Able reported the percentage of his practice involving civil, criminal, and domestic matters during the past five years as follows:

(a) civil: 10%;

(b) criminal: 20%;

(c) domestic: 70%.

Mr. Able reported the percentage of his practice in trial court during the past five years as follows:

(a) jury: 5%;

(b) non-jury: 95%.

Mr. Able provided that he most often served as sole counsel.

The following is Mr. Able’s account of his five most significant litigated matters:

(a) State v. Howard Steven Davenport

94-GS-30-386; tried June 2, 1994 in the Laurens County Court of General Sessions. Mr. Davenport was charged with unlawful possession of diazepam and possession with intent to distribute diazepam. The judge directed a verdict on the possession with intent to distribute diazepam charge and the jury returned a verdict of not guilty on the possession charge although Mr. Davenport admitted having diazepam in his possession that had not been prescribed to or for him.

(b) State v. Robert Jones

94-GS-30-629; tried in the Laurens County Court of General Sessions.

Mr. Jones was charged with committing or attempting a lewd act upon a child under fourteen. This case was significant because the defense moved to exclude a majority of the evidence introduced by the State pursuant to State v. Lyle.

(c) Johnson v. Flaugher

90-CP-39-180; tried in the Pickens County Court of Common Pleas on August 13 and 14, 1991.

The nature of this case was based in common law master-servant and negligence. Plaintiff was injured while employed by defendant but was not covered by workers compensation. As a result the action was brought on the common law theory of master-servant and negligence. At trial the jury returned a verdict for plaintiff. Upon appeal, the issues submitted for review were whether the issue of contributory negligence could be decided as a matter of law without being submitted to the jury, whether the issue of assumption of risk could have been decided as a matter of law without being submitted to the jury, if the judge had given a proper charge on the issue of contributory negligence, whether the judges charge on the issue of permanent injury and the use of life expectancy (mortuary) table was proper and whether the jury’s verdict was excessive.

(d) Satterfield v. Dillard Department Stores, Inc.

97-CP-23-1431; tried in the Greenville County Court of Common Pleas on October 29, 1998. This case was significant because the appellate court reviewed the issue of a party’s right to amend pleadings pursuant to Rule 15 SCRCP and if allowing a late amendment of pleadings was prejudicial to the other party.

(e) In the case of Donnie L. Thacker

Claim for Period of Disability and Disability Insurance Benefits before the Social Security Administration I began representing Mr. Thacker on October 12, 1988 on his claim for Social Security Disability Benefits. After numerous hearings, reviews by the Appeals Council and an appeal to the United States District Court, Mr. Thacker was awarded his benefits by decision of the Administrative Law Judge on December 19, 2000. My representation of Mr.Thaker in this case lasted twelve (12) years and ended successfully.

The following is Mr. Able’s account of five civil appeals he has personally handled:

(a) Johnny Lee Johnson v. Phillip Flaugher – S.C. Supreme Court;

(b) Jennifer Satterfield, by her Guardian Ad Litem, Pam Satterfield v. Dillard Department Store – S.C. Court of Appeals;

(c) South Carolina Department of Social Services v. Jason Ihnatiuk et al. S.C. Court of Appeals;

(d) South Carolina Department of Social Services v. Jacqueline D. Sims et al. S.C. Court of Appeals;

(e) David A. Babb v. Betty Anne Scott et al. – S.C. Court of Appeals.

Mr. Able reported that he has not personally handled any criminal appeals.

Mr. Able reports that he held the following judicial office:

“Laurens City Judge-March 1991-94. Criminal jurisdiction up to statutory fine or thirty days in jail.”

Mr. Able further reported the following regarding unsuccessful candidacies:

(a) Circuit Court, 8th Circuit, Seat 2 - 2008;

(b) Solicitor, Eighth Judicial Circuit - 2004.

(9) Judicial Temperament:

The Commission believes that Mr. Able’s temperament would be excellent.

(10) Miscellaneous:

Mr. Able is married to Esther Ruth Myers Able. He has three children.

Mr. Able reported that he was a member of the following bar associations and professional associations:

(a) South Carolina Bar Association;

(b) South Carolina Association of Criminal Defense Lawyers.

Mr. Able provided that he was a member of the following civic, charitable, educational, social, or fraternal organizations:

(a) Laurens Exchange Club;

(b) Rosemont Society of Laurens.

**The Piedmont Citizen’s Committee on Judicial Qualification found Mr. Able to be “Well-Qualified” for each of the nine evaluative criteria: constitutional qualifications, ethical fitness, professional and academic ability, character, reputation, physical health, mental stability, experience, and judicial temperament. The Committee also stated, “We were impressed by Mr. Able’s work ethic and his extensive experience.” The Committee found Mr. Able “Well Qualified” for the office he is seeking. The decision of the Committee was unanimous.”**

(11) Commission Members’ Comments:

The Commission commented that Mr. Able has a strong work ethic, which would serve him well as a Circuit Court judge. They noted that his diverse legal practice and his understanding of the practices and procedures in Circuit Court would also assist him on the bench.

(12) Conclusion:

The Commission found Mr. Able qualified, but not nominated, to serve as a Circuit Court judge.

**Donald Bruce Hocker**

**Circuit Court, Eighth Judicial Circuit, Seat 1**

**Commission’s Findings: QUALIFIED AND NOMINATED**

(1) Constitutional Qualifications:

Based on the Commission’s investigation, Judge Hocker meets the qualifications prescribed by law for judicial service as a Circuit Court judge.

Judge Hocker was born in 1952. He is 57 years old and a resident of Laurens, South Carolina. Judge Hocker provided in his application that he has been a resident of South Carolina for at least the immediate past five years and has been a licensed attorney in South Carolina since 1981.

(2) Ethical Fitness:

The Commission’s investigation did not reveal any evidence of unethical conduct by Judge Hocker.

Judge Hocker demonstrated an understanding of the Canons of Judicial Conduct and other ethical considerations important to judges, particularly in the areas of ex parte communications, acceptance of gifts and ordinary hospitality, and recusal.

Judge Hocker reported that he has made $187.40 in campaign expenditures for postage and stationary.

Judge Hocker testified he has not:

(a) sought or received the pledge of any legislator prior to screening;

(b) sought or been offered a conditional pledge of support by a legislator;

(c) asked third persons to contact members of the General Assembly prior to screening.

Judge Hocker testified that he is aware of the Commission’s 48-hour rule regarding the formal and informal release of the Screening Report.

(3) Professional and Academic Ability:

The Commission found Judge Hocker to be intelligent and knowledgeable. His performance on the Commission’s practice and procedure questions met expectations.

Judge Hocker described his past continuing legal or judicial education during the past five years as follows:

Conference/CLE Name Date

(a) S.C. Association of Probate Judges 02/19/02;

(b) S.C. Probate Bench/Bar 09/13/02;

(c) Annual Judicial Conference 09/22/02;

(d) S.C. Association of Probate Judges 03/25/03;

(e) S.C. Association of Probate Judges 05/16/03;

(f) FN-Real Estate 02/07/03;

(g) S.C. Probate Bench/Bar 09/12/03;

(h) Annual Judicial Conference 09/21/03;

(i) S.C. Association of Probate Judges 02/04/04;

(j) Judicial Oath of Office 10/11/04;

(k) S.C. Probate Bench/Bar 09/17/04;

(l) Annual Judicial Conference 10/10/04;

(m) Lawyer’s Oath of Office 09/24/04;

(n) S.C. Association of Probate Judges 02/28/05;

(o) LandAmerica-Title Insurance 09/14/05;

(p) S.C. Probate Bench/Bar 09/16/05;

(q) Annual Judicial Conference 09/21/05;

(r) S.C. Association of Probate Judges 02/06/06;

(s) LandAmerica-Title Insurance 08/23/06;

(t) S.C. Probate Bench/Bar 09/15/06;

(u) Annual Judicial Conference 10/04/06;

(v) S.C. Probate Bench/Bar 09/14/07;

(w) S.C. Association of Probate Judges 02/13/07;

(x) Annual Judicial Conference 09/09/07;

(y) S.C. Probate Bench/Bar 09/14/07;

(z) S.C. Association of Probate Judges 02/05/08;

(aa) S.C. Association of Probate Judges 09/12/08;

(bb) S.C. Association of Probate Judges 02/24/09.

Judge Hocker reported that he has taught the following law-related courses:

(a) 1999-Jury Trials in Probate Court;

1. 2000-Basic Evidence in Probate Court;
2. 2001-Order Writing;
3. 2002-Contempt Issues in Probate Court;
4. 2003-Will Construction Cases;
5. 2006-Awarding Attorney’s Fees in Probate Court;
6. 2007-Reopening the Record, Contempt Revisited, Pro Se Litigants,

Brown v. Coe

(h) 2009-Probate Court Bench Bar (Scheduled in September).

Judge Hocker reported that he has not published any books or articles.

(4) Character:

The Commission’s investigation of Judge Hocker did not reveal evidence of any founded grievances or criminal allegations made against him. The Commission’s investigation of Judge Hocker did not indicate any evidence of a troubled financial status. Judge Hocker has handled his financial affairs responsibly.

The Commission also noted that Judge Hocker was punctual and attentive in his dealings with the Commission, and the Commission’s investigation did not reveal any problems with his diligence and industry.

(5) Reputation:

Judge Hocker reported that his last available Martindale-Hubbell rating was BV.

(6) Physical Health:

Judge Hocker appears to be physically capable of performing the duties of the office he seeks.

(7) Mental Stability:

Judge Hocker appears to be mentally capable of performing the duties of the office he seeks.

(8) Experience:

Judge Hocker was admitted to the South Carolina Bar in 1981.

He gave the following account of his legal experience since graduation from law school:

“May 15, 1981 to current: I have been a sole practitioner in Laurens, South Carolina. I have had a general practice with significant experience in Circuit Court-both criminal and civil. I have also been the Associate Probate Judge for Laurens County since March of 1984 which will be discussed later.”

Judge Hocker further reported:

Criminal: My most significant litigated matters are discussed below [(c) and (d)]: I have represented criminal clients in General Sessions (and even Magistrate’s Court) my entire practice. I typically will receive 8-12 court appointments a year and approximately at least this same number of privately-paid cases annually. I have represented clients charged with a variety of offenses, i.e. murder, felony, DUI, possession and distribution of drugs. The vast majority of criminal cases result in a guilty plea but I have experience throughout my 28 years in trying cases before a jury. A sampling is as follows: Assault and Battery of a High and Aggravated Nature, Resisting Arrest/CDV of an High and Aggravated Nature, Manufacturing Methamphetamine, and Lynching.

Civil: My most significant litigated matters are discussed below [(a), (b), and (e)]: Regarding the three significant cases in Common Pleas that he has handled: I have extensive experience dealing with a wide variety of cases, both jury and non-jury. The two most recent cases that I have tried in Court were (1) a breach of contract/fraud case dealing with a sale of an antique automobile. I represented the Defendant. The case was tried before a jury with a verdict in favor of the Defendant. (2) A deed-set-aside case. I represented the Plaintiff. The case was tried non-jury with a verdict in favor of the Plaintiff. My practice has been more Plaintiff-oriented but I do represent Defendants. A sampling of what I currently have pending in my Common Pleas practice is as follows: Wrongful-death and Survival case representing the deceased’s family, Mechanic’s Lien foreclosure case representing the contractor, and a Fraud action over the sale of a piece of property representing the purchaser. I also represent The Palmetto Bank and The City of Laurens Commission of Public Works, which provides additional cases in the civil area.

Judge Hocker reported the frequency of his court appearances as follows:

(a) Federal: None;

(b) State: Average of five times a week.

Judge Hocker reported the percentage of his practice involving civil, criminal, and domestic matters as follows:

(a) Civil: 25%;

(b) Criminal: 25%;

(c) Domestic: 40%.

Judge Hocker reported the percentage of his practice in trial court as follows:

(a) Jury: 5%;

(b) Non-jury: 95%.

Judge Hocker provided that he most often served as sole counsel.

The following is Judge Hocker’s account of his five most significant litigated matters:

(a) Charles Gray and Corey Gray vs. Georgia Pacific Corp., 97-CP-30-110, 111,112.

I represented the Plaintiffs. This case involved a horrible vehicle accident with these two brothers. They both sustained severe 2nd and 3rd degree burns over most of their bodies. Suit was filed and a settlement was reached in 1997. This case is significant for several reasons. One, novel computer technology was used by the Plaintiff in the mediation process. Secondly, it is significant because the Plaintiffs were and are a living example of a true will to live and remain productive citizens, which they are today. Thirdly, significant discovery took place.

(b) Glen Meadows, LLC, et. al. vs. The Palmetto Bank, et. al., 03-CP-23-4541.

I represented the Defendant Palmetto Bank. This case involved a suit by the Plaintiff-employer against three Banks. The Plaintiff had an employee who stole $145,000.00 over several years by making out and endorsing numerous checks written on accounts with the Defendants. These checks were made payable to the Bank and each time a deposit was made to The Palmetto Bank. Extensive discovery took place. The case was significant because the law was very competitive between the UCC code and the requirements and duty of care placed upon a customer in contrast to the basic principals governing a banking institution’s duty of care.

(c) State of South Carolina vs. Allenna Ward, 07-GS-30-359, 362, 364, 365, 369.

This criminal case dealt with a teacher charged with criminal sexual misconduct with five underage students. There was a tremendous amount of publicity nationwide. I was one of the two lawyers representing this Defendant. The case was significant for several reasons. One, the vast majority of teachers charged in this state and other states were only involved with one student and this case had five. Secondly, it was significant simply because of the media attention it had from the day of the arrest to the sentencing.

(d) State of South Carolina v. Comest S. Allen, 99-GS-30-661.

I represented the Defendant who had been charged with armed robbery. He had been in jail/prison the majority of his life. He was accused of going into a Subway restaurant in Clinton, S.C. at midnight (closing time) and robbing the store. The robbery was on surveillance video. The Defendant was very accustomed to the legal system so he continuously filed motions, briefs, objections, etc. contrary to my advice. This case was significant for several reasons. First, he required me to file a Motion with the Court to allow a “re-enactment” of the crime wherein he would be allowed to wear what the “person” was wearing and would act out exactly as the person on the video in an attempt to offer the comparison of the videos as not being him. To the shock of everyone, the Court granted the Motion. The “re-enactment” was done but never an issue. This is due to the fact the only real evidence that the State had (and it was not the video) was the identification by the store clerk. However, under legal principles, we were successful in getting the photo identification line-up and the resulting testimony/in-court identification suppressed. The trial Judge agreed with our defense that the identification was clearly tainted hereby justifying a suppression of the clerk’s testimony. Consequently, a motion for directed verdict was made and granted.

(e) Ernest Sullivan vs. John Walk, et. al., 06-CP-30-890.

A lady died and left a significant life insurance policy naming, not her husband-the Plaintiff, but an uncle-the Defendant. This lady died of cancer and made the beneficiary change from the husband to the uncle in the latter stages of her illness. I represented the Defendant uncle. He claimed that she made the change to him because she trusted him to insure that her three children (not all by the husband) would be taken care of. The significant issue in the case was whether or not she had the mental capacity to effectuate the change of beneficiary. Significant also was the fact that we had to recreate the last months of this cancer-stricken lady’s life on the issue of competency. The case was resolved with the Plaintiff receiving nothing and the Defendant receiving the entire policy proceeds (he agreed to put a portion of the money in trust for the children). Also, it should be noted that a companion Interpleader action was filed by the Insurance Carrier.

The following is Judge Hocker’s account of five civil appeals he has personally handled:

(a) Shorb v. Shorb 372 S.C. 623 (Ct. App 2007)

I was the trial lawyer but associated another lawyer for the appeal. I was not shown as counsel but was copied with all correspondence from the Court of Appeals and I assisted counsel with the appeal. The case was novel on the issue of equitable division of Walmart stock options in a divorce. I represented the Wife who was awarded 55% of the Husband’s stock options along with a monetary award concerning these options. The Wife prevailed on the amount of stock options awarded her by the trial court.

(b) South Carolina Department of Social Services vs, Defendants (Court of Appeals 2000-unpublished opinion)

I represented the father of a teenage daughter who accused him of sexual abuse. The significance of this case was the Court’s defining “sexual abuse” to the facts of the case. We were successful in obtaining a reversal and remand in the case.

(c) Hellams v. Harnist 284 S.C. 256 (1985)

I represented the Defendants in this deed reformation case. I was successful in getting the Court to reverse the trial court’s reformation of the subject deed. The case sets out good law with respect to deeds, mutual mistakes in deeds, and property descriptions. (Note: I had only been out of law school four years when the appeal was decided).

(d) Bobby Tucker vs. Debra Wasson 90-759

This case was appealed by the mother in a visitation case. I represented the father. The issue being whether the father’s previously ordered supervised visitation should be changed. The Lower Court ruled in favor of the father. The Court of Appeals affirmed. The case was significant for several reasons. During the time the case was tried, issues of visitation being supervised or unsupervised were fairly uncommon. Too, the Guardian ad Litem played a role in this case possibly somewhat differently than a Guardian ad Litem today.

(e) Flinn v. Crittenden, 287 S.C. 427 (1985)

I represented the Plaintiff in a nursing home liability suit against the Defendant nursing home. The Lower Court granted summary judgment in the Defendant’s favor. The appellate court affirmed the ruling finding no liability. Justice Goolsby gave a strong dissent which is significant because it sets out a good review of nursing home liability.

Judge Hocker reported that he has not personally handled any criminal appeals.

Judge Hocker reported that he has held the following judicial office:

“I have been the Associate Probate Judge for Laurens County since March of 1984 (25½ years) and appointed by the elected Probate Judge. Probate Courts in South Carolina have jurisdiction over Estates, Mental Commitments, Conservatorships and Guardianships. During my tenure on the bench, I have presided over numerous cases not only in Laurens County but across the State. I have had the honor and privilege of being appointed by the Supreme Court to preside over many cases in other counties for a variety of reasons. I have had the opportunity to preside over jury trials as well as non-jury cases during my tenure. Even though non-jury cases are the most prevalent in Probate Court, I would like to give some of the following examples of jury trials I have presided over (non-exclusive list). (Note: Probate jury trials are identical to Circuit Court jury trials in all respects. A jury trial in Probate Court is conducted either in conjunction with a term of Common Pleas Court in Circuit Court or a special Probate jury term is authorized by the Supreme Court. In either situation, a Circuit Court jury pool is utilized).”

Examples:

(1) Barnett Estate-Anderson County: Six day jury trial with five lawyers and numerous lay and expert witnesses. Since this was the only case for that week of Circuit Court, I did all the initial jury pool qualification before the jury pool was voir dired for the particular case.

(2) Owings Estate-Laurens County: Four day jury trial with five lawyers and numerous lay and expert witnesses. The same is true in this case concerning jury pool qualification.

(3) Lester Estate-Newberry County: Two day jury trial in September 2008. A special term of court was scheduled with a Circuit Court jury pool summoned and used. As in the above cases, I presided over all aspects of the trial including jury qualification, jury voir dire, pre-trial and post-trial matters.

(4) Smith Estate-Laurens County: A several day jury trial is scheduled for a special term of Probate Court later in the 2009 year.

(5) Fulmer Estate-Newberry County: A several day jury trial is scheduled for a special term of Probate Court in September 2009.

The point being to the above summary of jury trial Judicial experiences is that I exercised the same role as that of a Circuit Court Judge and did everything that is required of a Circuit Court Judge presiding over a civil jury trial. It should also be noted that the Probate Court handles a wide variety of civil issues. The rules of evidence are the same in Probate Court as in Circuit Court. The Probate Court follows the South Carolina Rules of Civil Procedure.

Judge Hocker provided the following list of his most significant orders or opinions:

(a) Melvin Weathers v. Robert P. Bolt as Administrator of the Estate of Virginia B. Morris, 293 S.C. 486.

The Primary issue in this case was whether the Plaintiff had a common-law marriage with the decedent thus allowing him to inherit from the Estate. I ruled against the Plaintiff and my Order was appealed to Circuit Court and then to the Court of Appeals. Both appellate Courts affirmed my ruling.

(b) Department of Health and Human Services vs. Moses L. Miller, Personal Representative of the Estate of Genobia Washington, 2005-UP-154.

There were several issues in this case: 1. Jurisdiction of the DHHS claim; 2. The distinction between a Medicaid lien for nursing home services and a Medicaid lien for medical services provided as a result of an accident; 3. The right of the Court to sua sponte reopen the record. Both the Circuit Court and Court of Appeals affirmed my ruling.

(c) In the Matter of Mildred Williams, 97-ES-30-035

An emergency action was filed by a banking institution seeking a Protective Order and seeking a declaration as to the competency of Ms. Williams with respect to a very substantial investment account held by the bank. Several hearings were held in the case. At one time eight lawyers were involved. Ms. Williams also filed an extraordinary Writ of Prohibition in the S.C. Supreme Court (case number unknown) objecting to my jurisdiction over the case. This Writ action was ultimately dismissed. The merits of the case before my court were ultimately dismissed after the competency issue was resolved.

(d) In the Matter of Merrilee O. DeVinney, 01-GC-100/104

This case involved a very significant and somewhat novel issue related to the effect, if any, of a trust on a spouse’s claim to an elective share in the Estate. My Order was appealed to the Court of Appeals.

(e) In the Matter of the Estate of Bobby Gene Barnett, 03-ES-04-174

This case is ongoing which involves a large Estate and a substantial controversy among the family members along with a companion case involving two bonding companies which had bonds in place when a prior Personal Representative was in office. There have been 15-20 separate hearings along with a six day jury trial on the issue of the validity of the Last Will and Testament.

Judge Hocker reported the following regarding his employment while serving as a judge:

“Practicing attorney representing clients such as the City of Laurens Commission of Public Works and The Palmetto Bank.”

Judge Hocker further reported the following regarding an unsuccessful candidacy:

“I was found qualified but not nominated as a candidate for the Eighth Circuit Seat No. 2 in the fall of 2008.”

(9) Judicial Temperament:

The Commission believes that Judge Hocker’s temperament would be excellent.

(10) Miscellaneous:

Judge Hocker is married to Susan Gayle Lindler Hocker. He has two children.

Judge Hocker reported that he was a member of the following bar associations and professional associations:

(a) Laurens County Bar Association;

(b) South Carolina Bar Association;

(c) S.C. Trial Lawyers Association;

(d) S.C. Association of Probate Judges;

(e) Certified Circuit Court Mediator/Arbitrator (ADR).

Judge Hocker provided that he was a member of the following civic, charitable, educational, social, or fraternal organizations:

“I am active in my church which is the First United Methodist Church in Laurens. I serve as Chairman of the Church Council and I teach an adult Sunday school class. I have been active with the Boy Scouts serving as Troop Committee Chairman. I belong to the KAPPA ALPHA Order Court of Honor which is an elite organization of men across the State who are KAPPA ALPHA alumni. Several years ago, I received the South Carolina Pro Bono Service Award. Finally, I was voted “Best Attorney” in 2009 by the subscribers to the Clinton Chronicle.”

Judge Hocker further reported:

(a) I have 28 years experience practicing in Circuit Court both in Common Pleas-civil and General Sessions-criminal. I have tried cases jury and non-jury. I believe that I have more than sufficient legal experience to qualify me for this position.

(b) I have 25½ years on the Judicial Bench as the Associate Probate Judge for Laurens County. I have tried cases jury and non-jury. I have presided over cases across this State. I believe that I have more than sufficient judicial experience to qualify me for this position.

(c) I have never had any grievances or ethical complaints filed against me in the 28 years I have been a practicing attorney.

(d) I have never had any grievances or ethical complaints filed against me in the 25 ½ years I have been a Judge.

(e) I am a Christian and active in my Church and community to the extent that my part-time judicial position allows.

(f) I have a stable and loving marriage of 33 years with two wonderful children who are both adopted.

(g) I believe that I have the right judicial temperament and sense of fairness and compassion that will allow me to be a good Circuit Court Judge.

(h) That I meet the nine criteria used by the Commission in determining that I am qualified:

1. I meet the Constitutional qualifications;

2. I am ethically fit;

3. I have the necessary academic and professional abilities;

4. I have the required character;

5. I have a positive reputation;

6. I have excellent physical health;

7. I have no mental health problems;

8. I have the necessary legal and judicial experience;

9. I have the necessary judicial temperament.

Finally, I am humbled in having the opportunity to apply for this position. I believe that the above factors that I have listed have influenced me in being the type of Judge I have been and the type of Judge that I will continue to be whether (and hopefully) in the Circuit Court arena or continue in the Probate Court arena.

**The Piedmont Citizen’s Committee on Judicial Qualification found Judge Hocker to be “Qualified” in the following categories: constitutional qualifications; ethical fitness; professional and academic ability; character; reputation; experience; and judicial temperament. He was found “Well-Qualified” for the following categories: physical health and mental stability. The committee stated, “We find Mr. Hocker qualified for the office he is seeking. The decision of the Committee was unanimous.”**

(11) Commission Members’ Comments:

The Commission commented that Judge Hocker has a good reputation as an Associate Probate Judge. They noted his “down-to-earth” demeanor and his legal experience would benefit him on the Circuit Court bench.

(12) Conclusion:

The Commission found Judge Hocker qualified and nominated him for election to the Circuit Court.

**Andrew Michael Hodges**

**Circuit Court, Eighth Judicial Circuit, Seat 1**

**Commission’s Findings: QUALIFIED, BUT NOT NOMINATED**

(1) Constitutional Qualifications:

Based on the Commission’s investigation, Mr. Hodges meets the qualifications prescribed by law for judicial service as a Circuit Court judge.

Mr. Hodges was born in 1970. He is 39 years old and a resident of Greenwood, South Carolina. Mr. Hodges provided in his application that he has been a resident of South Carolina for at least the immediate past five years and has been a licensed attorney in South Carolina since 1996.

(2) Ethical Fitness:

The Commission’s investigation did not reveal any evidence of unethical conduct by Mr. Hodges.

Mr. Hodges demonstrated an understanding of the Canons of Judicial Conduct and other ethical considerations important to judges, particularly in the areas of ex parte communications, acceptance of gifts and ordinary hospitality, and recusal.

Mr. Hodges reported that he has not made any campaign expenditures.

Mr. Hodges testified he has not:

(a) sought or received the pledge of any legislator prior to screening;

(b) sought or been offered a conditional pledge of support by a legislator;

(c) asked third persons to contact members of the General Assembly prior to screening.

Mr. Hodges testified that he is aware of the Commission’s 48-hour rule regarding the formal and informal release of the Screening Report.

(3) Professional and Academic Ability:

The Commission found Mr. Hodges to be intelligent and knowledgeable. His performance on the Commission’s practice and procedure questions met expectations.

Mr. Hodges described his past continuing legal or judicial education during the past five years as follows:

Conference/CLE Name Date

(a) 2004 Annual Solicitor’s Conference 09/26/04 – 09/29/04;

(b) 2005 Annual Solicitor’s Conference 09/25/05 – 09/28/05;

(c) 2006 Capital Litigation Seminar 05/08/06 – 05/10/06;

(d) 2006 Annual Solicitor’s Conference 09/24/06 – 09/27/06;

(e) The Career Prosecutor Course 06/03/07 – 06/13/07;

(f) 2007 Annual Solicitor’s Conference 09/23/07 – 09/26/07;

(g) 2008 Annual Solicitor's Conference 09/28/08 – 10/01/08;

(h) Capital Litigation Jury Qualification 07/08/09 – 07/10/09.

Mr. Hodges reported that he has taught the following law-related courses:

(a) At the 2002 Annual Solicitor’s Conference, I participated as a lecturer on the topic of pretrial hearings involving the admissibility of confessions, including issues relating to Miranda v. Arizona and Jackson v. Denno.

(b) In 2004, I taught a multi-week course on a variety of legal issues including Constitutional Law, search and seizure, and the laws of arrest to a group of Abbeville Police Department reserve police officers who were preparing to be tested on those subjects.

(c) On March 20, 2007, I spoke to the Leadership Greenwood Class of 2007 about the role of the Solicitor’s Office in the court process. Sponsored by the Greenwood Chamber of Commerce, Leadership Greenwood focuses on “developing future leaders through a year-long series of monthly full day sessions addressing a variety of issues, opportunities, and challenges facing Greenwood County.”

(d) On March 23, 2007, I participated as a panel speaker at the Governor’s seminar on Compliance: Best Practices for Implementing the Victims’ Bill of Rights. I spoke specifically about the challenges faced by prosecutors in maintaining contact with transient victims, and ideas about how to keep them notified about and involved in the court process.

(e) On September 13, 2007, I spoke to about six hundred student athletes, coaches, fraternity and sorority members, and faculty on The Consequences of Hazing at Lander University. I stressed the dangers of hazing, and the potential for criminal and civil liability, through the use of examples from both local and national incidents. I repeated that address to another group of students on September 24, 2008.

(f) On September 26, 2007, I spoke at the 2007 Annual Solicitor’s Conference Death Penalty Update regarding a novel issue involving the admissibility of wiretap tapes on which I had submitted a brief to the South Carolina Court of Appeals during a capital trial earlier that year.

(g) On January 16, 2009, I taught a CLE at the South Carolina Criminal Justice Academy entitled "Motion Practice: Anticipating and Responding to Defense Motions in Limine."

(h) Between September 18 and September 20, 2009, I participated as an instructor at the "Prosecution Bootcamp 2009" held at Myrtle Beach, South Carolina. The goal of the course was to provide training to inexperienced prosecutors.

(i) On March 20, 2009, I taught a CLE at the South Carolina Sheriff's Association entitled "Bond Estreatments.”

Mr. Hodges reported publishing the following article:

"The First Challenge to South Carolina's Wiretapping Law," The Higher Standard, Volume 1, Issue 3, October 15, 2008

(4) Character:

The Commission’s investigation of Mr. Hodges did not reveal evidence of any founded grievances or criminal allegations made against him. The Commission’s investigation of Mr. Hodges did not indicate any evidence of a troubled financial status. Mr. Hodges has handled his financial affairs responsibly.

The Commission also noted that Mr. Hodges was punctual and attentive in his dealings with the Commission, and the Commission’s investigation did not reveal any problems with his diligence and industry.

(5) Reputation:

Mr. Hodges reported that his Martindale-Hubbell rating is BV.

(6) Physical Health:

Mr. Hodges appears to be physically capable of performing the duties of the office he seeks.

(7) Mental Stability:

Mr. Hodges appears to be mentally capable of performing the duties of the office he seeks.

(8) Experience:

Mr. Hodges was admitted to the South Carolina Bar in 1996.

He gave the following account of his legal experience since graduation from law school:

Sept. 1996 – Jan. 2005 Assistant Solicitor, Eighth Circuit Solicitor’s Office

As an Assistant Solicitor I prosecuted a wide variety of cases in General Sessions court in Abbeville, Greenwood, Laurens and Newberry Counties. I benefited from working in a small office where I was quickly given the opportunity to handle significant cases. I had my first jury trial within two weeks of being sworn into the bar and was assigned my first homicide within a year. For five years I was the office drug prosecutor and tried countless drug-related offenses across the Eighth Circuit. As drug prosecutor, my duties also included the resolution of a considerable number of civil asset forfeiture actions.

Jan. 2005 – Present Deputy Solicitor, Eighth Circuit Solicitor’s Office

In January of 2005 I was promoted to Deputy Solicitor for Greenwood County. I supervise four Assistant Solicitors, a Court Administrator, a Victim/Witness Advocate and an Investigator. I advise the Assistant Solicitors on charging decisions and plea agreements, and often sit with them in trial to provide training and guidance. I coordinate the scheduling of all trials, pleas, hearings, and appearances for approximately nineteen weeks of General Sessions Court per year. I also personally prosecute the majority of the violent crimes that occur in Greenwood County.

Mr. Hodges further reported:

With regard to my experience in criminal matters, I have been a prosecutor for nearly twelve years. I have handled thousands of criminal cases, from the simplest DUI to the most complicated capital murder. I spend about twenty weeks a year in General Sessions Court. After spending that much time, and handling that volume of cases, I believe that I have developed an excellent barometer for appropriate criminal sentencing. The sheer number of cases that are processed through General Sessions Court requires that most be disposed of through plea negotiations, and I have presented countless pleas to Circuit Judges who have accepted my negotiations and recommendations. I have also participated in a significant number of jury trials, thereby gaining a firm grip on the rules of evidence and the body of case law related to criminal practice.

My experience as a criminal prosecutor has provided few opportunities for practice in Common Pleas Court. During my time as a drug prosecutor, I did file and pursue a fair number of civil forfeiture actions but all were settled short of trial. I have also pursued a couple of nuisance actions, one of which involved some litigation before it ultimately settled. My background in managing a large criminal docket and ensuring that cases are processed in a timely manner would, I think, help prepare me to manage a civil docket. The skills I have gained in bringing parties together to settle cases short of trial would also be an asset to a Circuit Judge presiding over civil matters. However, I do recognize that my limited experience in civil matters is a weakness and I have been working diligently to compensate for that lack of experience. I always read the advance sheets, and I have been re-reading and briefing the advance sheets from the last year. Finally, I would plan to attend CLEs on additional civil topics to help compensate for my lack of experience in those areas.

Mr. Hodges reported the frequency of his court appearances during the past five years as follows:

(a) federal: none;

(b) state: about ten full days per month.

Mr. Hodges reported the percentage of his practice involving civil, criminal, and domestic matters during the past five years as follows:

(a) Civil: 0.01%;

(b) Criminal: 99.9%;

(c) Domestic: 0%.

Mr. Hodges reported the percentage of his practice in trial court during the past five years as follows:

(a) jury: 2%;

(b) non-jury: 98%.

Mr. Hodges provided that he most often served as sole counsel.

The following is Mr. Hodges’s account of his five most significant litigated matters:

(a) State v. Steven Bixby, Rita Bixby and Arthur Bixby.

On December 8, 2003, Deputy Danny Wilson went to the Bixby residence in Abbeville County to attempt to settle a dispute between the Bixbys and construction workers who were engaged in a highway widening project in front of their residence. Steven Bixby shot Deputy Wilson with a high-powered rifle, cuffed him with his own handcuffs and dragged him inside the home where he died of his wounds. Bixby also shot and killed Constable Donnie Ouzts who had responded to a report that Wilson had been shot. After a fourteen-hour standoff with local and state law enforcement a gun battle erupted between the Bixbys and SLED. Former SLED Chief Robert Stewart said it was “more gunfire than I’ve ever experienced in over 30 years.” Steven and Arthur Bixby ultimately surrendered and were charged with the murder of the two law enforcement officers. Rita Bixby was charged with Accessory Before the Fact to Murder because of her prior knowledge and encouragement of the plan to kill the officers.

The State sought the death penalty against Steven Bixby. I was one of three lawyers on the prosecution team that tried the case in February of 2007. Because of extensive pre-trial publicity we selected and sequestered a jury from Chesterfield County. Concerns over the Bixbys’ ties to a militia group in New Hampshire led to extreme security measures including a law enforcement perimeter around the courthouse and an armed convoy to transport the prosecution team to and from court.

A case of first impression arose when the defense moved to suppress a tape of the gun battle that was generated through the use of a SLED wiretap. The applicable statute, that had never been tested, requires the motion to suppress be decided by a panel of three judge of the South Carolina Court of Appeals. I filed a brief on the issue and the Court of Appeals ruled that the statute was constitutional and that the tapes were admissible.

Steven Bixby was ultimately convicted and sentenced to death.

The State also sought the death penalty against Rita Bixby. The trial court granted the defendant’s motion to dismiss the State’s notice of intention to seek the death penalty. The State appealed and the South Carolina Supreme Court ruled that a charge of Accessory Before the Fact to Murder does not render a defendant eligible for the death penalty. State v. Bixby, 373 S.C. 74 (2007).

I was again one of three attorneys on the prosecution team that brought Rita Bixby to trial in October of 2007. She was convicted and sentenced to life imprisonment. Arthur Bixby has been found incompetent and is currently in the custody of the Department of Mental Health.

(b) State v. Joey Haymes.

In November of 2004 the family of Billy Ray Adams reported him missing. A deputy found his body in a wooded area behind his house. A BOLO was issued for the victim’s missing vehicle. The defendant was stopped in Spartanburg County while driving the victim’s car. I had prosecuted Haymes earlier that year for a Breach of Trust where Adams was the victim, and there was some animosity by Haymes about the restitution that he was ordered to pay to the victim. At trial on the murder charge, the defendant claimed that he had shot the victim in self defense. Through the testimony of a forensic pathologist, and successful cross examination of the defendant, I was able to disprove the defendant’s claims of self defense. The defendant was convicted of murder and sentenced to life imprisonment.

(c) State v. Freddie Edwards.

On July 16, 2005, Freddie Edwards, a fairly prominent business owner in Greenwood, shot and killed George Freeman during a dispute over a two dollar bet during a poker game at the defendant’s residence. I called the case to trial in August of 2006. The defendant was convicted of murder and received a thirty year sentence. An interesting footnote to this case is that the defendant is the father of Armanti Edwards, the star quarterback of Appalachian State University. It is encouraging to see that he has continued to be successful despite the mistakes of his father.

(d) Eighth Circuit Solicitor v. Club Weekend.

Club Weekend, a Greenwood nightclub, was the site of ongoing crowding, noise, violent crime and drug activity. Following a murder (that I subsequently prosecuted) in the parking lot, I filed a nuisance action in 2002 against the owner of the building and the proprietors of the nightclub. After an evidentiary hearing in December of 2002, the Court issued an Order for Temporary Injunction that effectively closed the nightclub’s doors. A settlement in January of 2003 terminated Club Weekend’s lease and placed restrictions on any future use of the property. This case was significant because it eliminated an establishment that posed a serious safety threat to both the public and local law enforcement.

(e) State v. Jerome Chisholm.

Jerome Chisholm molested a six-year-old girl who contracted HIV as a result of the assault. I called the case to trial in June of 2009. Based upon the victim's brave testimony along with corroborating forensic evidence, including DNA, the jury convicted the Defendant of Criminal Sexual Conduct with a Minor in the 1st Degree. The Court sentenced him to the maximum thirty year sentence. The case is significant because it removed a dangerous pedophile from our community.

Mr. Hodges reported that he has not personally handled any civil or criminal appeals.

Mr. Hodges further reported the following regarding an unsuccessful candidacy:

“Last year I ran for the office of Circuit Court, At-Large, Seat 1. I was nominated, but ultimately withdrew shortly before the election.”

(9) Judicial Temperament:

The Commission believes that Mr. Hodges’s temperament would be excellent.

(10) Miscellaneous:

Mr. Hodges is married to Dawn Puderbaugh Hodges. He has one child.

Mr. Hodges reported that he was a member of the following bar associations and professional associations:

(a) South Carolina Bar Association;

(b) Greenwood County Bar Association.

Mr. Hodges provided that he was a member of the following civic, charitable, educational, social, or fraternal organizations:

(a) Ancient Free Masons of South Carolina – Past Master of Mathews Lodge No. 358. (Steward 2003, Senior Deacon 2004, Junior Warden 2005, Senior Warden 2006, Worshipful Master 2007);

(b) Volunteer for United Way Day of Caring, yearly 1998-2003;

(c) Volunteer for Kiwanis Kids’ Triathlon, yearly 2006-08;

(d) Greenwood Community Theater – acted the part of Sir Lionel in a production of *Camelot* in June of 2002, and acted the part of The Guard in a production of *Twelve Angry Jurors* in March of 2008.

**The Piedmont Citizen’s Committee on Judicial Qualification found Mr. Hodges “Well-Qualified” for two of the nine evaluative criteria: physical health and mental stability. They found him “Qualified” for seven of the criteria: constitutional qualifications, ethical fitness, professional and academic ability, character, reputation, experience, and judicial temperament. The committee provided the following statement: “The Piedmont Citizens Committee interviewed Andrew M. Hodges at the Greenwood County Courthouse during the evening of September 9, 2009. We find Mr. Hodges qualified for the office he is seeking. The decision of the Committee was unanimous.”**

(11) Commission Members’ Comments:

The Commission commented that Mr. Hodge’s extensive criminal law experience as a prosecutor would assist him in serving as a Circuit Court Judge. They also noted his active civic involvement in his community.

(12) Conclusion:

The Commission found Mr. Hodges qualified, but not nominated, to serve as a Circuit Court judge.

**Joseph C. Smithdeal**

**Circuit Court, Eighth Judicial Circuit, Seat 1**

**Commission’s Findings: QUALIFIED AND NOMINATED**

(1) Constitutional Qualifications:

Based on the Commission’s investigation, Mr. Smithdeal meets the qualifications prescribed by law for judicial service as a Circuit Court judge.

Mr. Smithdeal was born in 1967. He is 42 years old and a resident of Greenwood, South Carolina. Mr. Smithdeal provided in his application that he has been a resident of South Carolina for at least the immediate past five years and has been a licensed attorney in South Carolina since 1992.

(2) Ethical Fitness:

The Commission’s investigation did not reveal any evidence of unethical conduct by Mr. Smithdeal.

Mr. Smithdeal demonstrated an understanding of the Canons of Judicial Conduct and other ethical considerations important to judges, particularly in the areas of ex parte communications, acceptance of gifts and ordinary hospitality, and recusal.

Mr. Smithdeal reported that he has not made any campaign expenditures but he stated, “I had some resumes and business cards printed last year regarding my prior candidacy and [I] expect to update those at some point.”

Mr. Smithdeal testified he has not:

(a) sought or received the pledge of any legislator prior to screening;

(b) sought or been offered a conditional pledge of support by a legislator;

(c) asked third persons to contact members of the General Assembly prior to screening.

Mr. Smithdeal testified that he is aware of the Commission’s 48-hour rule regarding the formal and informal release of the Screening Report.

(3) Professional and Academic Ability:

The Commission found Mr. Smithdeal to be intelligent and knowledgeable. His performance on the Commission’s practice and procedure questions met expectations.

Mr. Smithdeal described his past continuing legal or judicial education during the past five years as follows:

Conference/CLE Name Date

(a) IWA Spring Seminar 05/08/09;

(b) SCACDL Blues, BBQ and Bar CLE 07/09/09;

(c) SCAJ Annual Convention 08/6-7/09;

(d) E-Discovery After 12/1/06 Changes 04/20/07;

(e) SCTLA Annual Convention 08/02/07;

(f) 25th SCIWA Conference 11/01/07;

(g) Title Insurance Claims and Underwriting 11/06/07;

(h) Fundamentals of Elder Law 11/27/07;

(i) SCCAWC Spring Seminar 05/12/06;

(j) SCACDL 2nd Annual Criminal Law 07/14/06;

(k) SCTLA Annual Convention 08/03/06;

(l) Attorney ECF Training 01/19/05;

(m) SCTLA Annual Convention 08/04/05;

(n) Newly Adopted Med Mal 10/14/05;

(o) Dove Shoot 11/21/05;

(p) Electronic Courtrooms 01/01/04;

(q) SCTLA Lunch and Learn 01/30/04;

(r) Negotiating the Hazards Real Estate 06/11/04;

(s) Winning with Multi-media 06/25/04;

(t) SCTLA Annual Convention 08/05/04;

(u) New Lawyer’s Oath 08/06/04.

Mr. Smithdeal reported that he has taught the following law-related course:

(a) S.C. Bar- Law School for Non-Lawyers;

(b) Worker’s Compensation-volunteer program that helps the general public understand various types and aspects of the law.

Mr. Smithdeal reported that he has not published any books or articles.

(4) Character:

The Commission’s investigation of Mr. Smithdeal did not reveal evidence of any founded grievances or criminal allegations made against him. The Commission’s investigation of Mr. Smithdeal did not indicate any evidence of a troubled financial status. Mr. Smithdeal has handled his financial affairs responsibly.

The Commission also noted that Mr. Smithdeal was punctual and attentive in his dealings with the Commission, and the Commission’s investigation did not reveal any problems with his diligence and industry.

(5) Reputation:

Mr. Smithdeal reported that his Martindale-Hubbell rating is BV.

(6) Physical Health:

Mr. Smithdeal appears to be physically capable of performing the duties of the office he seeks.

(7) Mental Stability:

Mr. Smithdeal appears to be mentally capable of performing the duties of the office he seeks.

(8) Experience:

Mr. Smithdeal was admitted to the South Carolina Bar in 1992.

He gave the following account of his legal experience since graduation from law school:

(a) Judson Ayers & Associates, P.C. 1992-95, practice focused on general civil litigation, Family Court, Workers Compensation, criminal defense, social security disability, real estate closings, consumer law, employment law;

(b) Ayers & Smithdeal, P.C. 1995-97, practice areas substantially the same but fewer real estate closings;

(c) Ayers, Smithdeal & Bettis, P.C. 1997-present, practice areas substantially the same although I have not done as much Family Court work over the past five years.

Mr. Smithdeal further reported:

Criminal Experience - Over the past five years and I have handled cases involving CSC with a minor, armed robbery, burglary, accessory before the fact to murder (death penalty notified), trafficking various drugs, forgery, DUI, ABHAN, ABWIK and many other types of cases. Most notably, I was appointed on the notorious State v. Rita Bixby case. The Solicitor filed notice that the State intended to seek the death penalty. I therefore requested death penalty certified co-counsel to assist. I was the second or third attorney appointed to represent Rita Bixby as each of the previous attorneys claimed some sort of conflict. I took the case and fought for my client because I have taken an oath to protect and preserve the Constitution. I take that oath very seriously. I knew that the case would take a tremendous amount of time and that I may lose some friends in the law enforcement community as the victims in the case were a Sheriff’s Deputy and a State Constable - both of whom were widely respected and loved in Abbeville County.

The most pressing issue in the case was the death penalty. Without precedent in South Carolina or in any other State, the question was whether a person charged as an accessory before the fact to murder was subject to the death penalty. Co-counsel and I filed a motion to dismiss and took the position that pursuant to the Death Penalty Statute, the answer was “no.” The trial court agreed with the defense and the State took a direct appeal to the South Carolina Supreme Court. The Court affirmed the trial court (Toal dissent) and our client was no longer facing the death penalty if convicted.

My co-counsel and I filed and argued many other pre-trial motions including: reasonable bail; speedy trial (not granted but deadline given to State to try case); change of venue (granted with consent of State); exclusion of confessions or other inculpatory statements (several granted over objection); motions to compel discovery; various ex parte motions for costs and fees; and a motion to dismiss for insufficiency of the indictment. All motions were researched and argued by us.

The case was tried during the Fall of 2007 amidst a great deal of publicity. There were numerous witnesses called by the State including: fingerprint; firearms; crime scene; pathology; DNA and computer experts. There were also lay witnesses and police officers who were examined. Dozens of exhibits were entered into evidence and/or marked for identification. My co-counsel and I divided the trial equally between us. One of the more interesting issues that arose during the trial was the admissibility of statements made by a co-defendant that tended to incriminate our client. This is one of the issues from the case that is currently on appeal. The client was convicted and was sentenced to life in prison.

While some of the major issues in the Bixby case were new to me and to the State of South Carolina, many of the issues were the same ones I look at on a regular basis in making decisions and advising clients. The vast majority of my criminal cases result in a plea, but anticipating issues such as those that arose in the Bixby case help me to provide the best representation I can offer.

Civil Experience - The largest percentage of my practice involves civil matters. I represent people in the Court of Common Pleas most often however. At any given time I have 5-10 cases in litigation in Common Pleas. Currently, I am representing a lady who alleges that her OB/GYN stapled her ureter shut with resulting kidney loss. I am representing a lady who was injured when a driver sending text messages crossed the center line and into my client’s path. The defendant has had multiple citations and wrecks in the past ten years and after investigating these prior wrecks, I discovered that texting has been the cause of at least one of these. I recently settled a case for almost a million dollars for a lady who had undergone three surgeries and had over two hundred thousand dollars in medical bills. She was rear ended and her vehicle totaled by a commercial vehicle. I represent a trustee who is being sued for breach of trust. My client has brought counter claims for declaratory relief. I represent an attorney in fact under a durable general power of attorney for misappropriation of assets and a large national corporation in a zoning appeal. These are just a few examples of my civil practice.

Unlike criminal cases, civil trial work allows for extensive pre-trial discovery which gives all the parties a chance to fully evaluate their strengths and weaknesses. While this is time consuming and expensive, the justice system is usually the beneficiary of more settlements and fewer trials. Most of my cases utilize expert testimony in some form. From the very beginning of my career I have been in the courtroom trying predominantly civil cases. Issues range from pleading deficiencies, service problems, discovery abuse, expert qualifications, pretrial, evidentiary, in limine and dispositive motions to scheduling witness appearances, judge preferences, jury selection, and post trial motions and appeal. While most cases settle, all cases must be prepared as if a trial will be necessary.

I have represented clients at every stage of civil litigation from initial client/case evaluation to appeal to post judgment supplemental proceedings and collections. Besides the cases in which litigation is necessary, I have over one hundred active cases at any given time. I mostly represent plaintiffs. I have represented several past employees of the Clerk of Court’s office, and also derive a fair portion of my practice from attorney referrals. These two sources are a point of pride for me as both referral sources have the opportunity to interact with and observe many attorneys and select the one whom they consider most qualified.

Mr. Smithdeal reported the frequency of his court appearances during the past five years as follows:

(a) Federal: No federal ct appearances in last five years;

(b) State: Monthly.

Mr. Smithdeal reported the percentage of his practice involving civil, criminal, and domestic matters during the past five years as follows:

(a) Civil: 75%;

(b) Criminal: 20%;

(c) Domestic: 5%.

Mr. Smithdeal reported the percentage of his practice in trial court during the past five years as follows:

(a) Jury: 5%- most criminal and civil matters settle before trial;

(b) Non-jury: 95%.

Mr. Smithdeal provided that he most often served as sole counsel, “or if the matter was referred to me by another lawyer, chief counsel.”

The following is Mr. Smithdeal’s account of his five most significant litigated matters:

(a) Fisher, as Pers. Rep. v. Fielder, MD, Baarcke, DMD, and Wallace Thompson Hospital.

This was my first medical malpractice trial. Rodney Fisher was a 28 year old, poor, uninsured man who died from an improperly treated abscess tooth. The infection spread to his lower jaw and throat and he suffocated to death while in the hospital. He was unemployed and lived with his parents. He had no children. The defendants were a highly visible and popular family physician who had delivered and/or treated a large portion the population of the small county for forty years, a popular dentist and the county’s sole hospital. The physician had been sued for malpractice in two prior cases. One jury was hung 11-1 in favor of the defendant and the other was a defense verdict hung by the trial judge under the 13th juror doctrine. The trial courts in each case later changed venue in these prior cases for an inability to find an impartial jury.

I moved for a change of venue in the Fisher case pre trial based upon the events of the previous trials, the popularity of the three defendants and the ex parte communications between the decedent’s treating physicians and the defendants. I submitted dozens of affidavits from ordinary citizens of the county, newspaper articles extolling the good deeds of the defendants and a memorandum of law supporting my motion. The motion was denied.

One of the defense experts who was a local physician, in his deposition and again during the trial, testified that he had never heard of a particular medical term which was crucial to my theory of the case. Fortunately, during the discovery phase, I had located a woman whose home was in a very remote section of the county and who had suffered the same condition as my client and was also treated by this expert. I traveled to this woman’s home, listened to her story and obtained a medical authorization for her records. I also subpoenaed this woman to trial. During the cross examination of this doctor, he stuck with his feigned ignorance of my “outlandish theory”. I then presented him with his former patient and his own records showing clearly that this expert was not only aware of the medical condition and terminology but that he was willing to lie to the jury to protect his local buddy.

The trial lasted a week and the jury returned a verdict on Saturday afternoon. The issue was whether the defendants had deviated from the accepted standard of care in their respective professions and if so, whether those deviations were the direct cause of the decedent’s death. The courtroom was full of local physicians who were there to lend moral and visible support to the defendants. The defense attorneys were much older and vastly more experienced than me. Despite the odds, the plaintiff’s mom and dad prevailed in true David v. Goliath fashion and the jury’s verdict was for the plaintiffs.

(b) Ukadike v. S.C. Department of Corrections,

Kenneth Ukadike had a PhD, two bachelor degrees and an associate’s degree. He taught continuing education courses to the employees of the Department of Corrections. He had an exemplary record of annual evaluations. Mr. Ukadike had been working in same job with the Department for over ten years. He had been passed over for promotion numerous times. He was even passed over for a job previously held by inmates. His problem? He was black and from Nigeria. He also spoke with an accent.

On behalf of my client, I filed a lawsuit in U.S. District Court for violation of Title VII of the 1964 Civil Rights Act. The case was of particular concern for my client because he was still employed by the Department at the time of the litigation and the main perpetrator of the illegal discrimination according to my client was the warden himself. He was therefore in a very precarious position.

Discovery was extensive with the plaintiff’s deposition alone lasting three days. Both sides named numerous witnesses and the documentary evidence was voluminous. The case was put together with a mixture of direct and circumstantial evidence some of which was excluded by the trial judge. Mediation was attempted but the parties were apart by many thousands of dollars.

The trial lasted for three days. There were approximately twenty total witnesses called to testify. Some of the plaintiff’s witnesses were current or former employees of the Department and were examined pursuant to Rule 611 SCRE. The testimony and evidence proved that Mr. Ukadike had been the subject of ridicule and humiliation at the hands of his supervisors in the Department. They had told him to “go back to Africa” and had mimicked the way he spoke to inmates and other employees. They had passed him over for junior, white employees with only high school diplomas. In the end the plaintiff prevailed and he broke down in tears in release of the tension and stress he had been through over the years. This was the first and only time the Department of Corrections had been sued and lost on a nation of origin claim. Mr. Ukadike was able to go back to work with his head held high. He still works in the same job today.

(c) State v. Bixby, a brief description of this case is set forth above.

(d) North Carolina Mutual Life Insurance Company v. Effie Gant,

Effie Gant had purchased a whole life insurance policy on her daughter’s life through the plaintiff corporation. The daughter passed away at an early age and the insurance company sued Ms. Gant requesting a declaratory judgment that the policy was void because she had defrauded the company by failing to inform the company that the daughter had diabetes among other conditions. Ms. Gant came to our office with the lawsuit and we started investigating the allegations. We discovered that the application for insurance was actually completed and forged by the insurance agent. A counter claim was filed for breach of contract, breach of contract accompanied by a fraudulent act and fraud. The insurance company defaulted and after giving it ample time to remedy the problem, an entry of default was granted and the case was set for a damages hearing.

The jury verdict was and continues to be one of the largest in Greenwood County history. Issues in the case included: Rule 55 SCRCP set aside of entry of default; admissibility of the plaintiff’s net worth; election of remedies; post trial motions for new trial absolute and remittur; and then the appeal. The case was ultimately settled while the appeal was pending.

(e) Rainey v. S.C. Department of Transportation,

This was the case that nobody wanted. A young girl and her friends were traveling back to the Governor’s School in Greenville after having visited a Lander University art exhibit. They were driving on Highway 25 North at Ware Shoals, S.C. when they ran head on into a south bound car driven by a Greenwood lady and her friends returning home from a shopping trip in Greenville. Three people were killed and the rest were seriously injured. The young girl was charged with failure to yield after she ran through a “Y” configured intersection into oncoming traffic. The young girl and her family went to several attorneys before finding one who would take her case.

The case took many months to investigate pre-suit. My partners and I went to the intersection and surveyed it carefully. We determined that the intersection was dangerous as Highway 25 which was two lanes coming from Greenwood split with one lane crossing Highway 25 Southbound like an “y” and going into Ware Shoals and the second lane continuing north towards Greenville. A person who happened to be in the left lane was forced to exit across Highway 25 Southbound towards Ware Shoals.

The yield sign facing traffic going into Ware Shoals resembled an onramp yield sign except the traffic being yielded to was oncoming instead of going in the same direction as is the situation with an onramp. There were no signs to indicate in which direction to expect traffic. There were no signs informing a driver that the left lane would take him off of Highway 25. The young girl, having never driven in the area was in the left hand lane. The road veered off to the left and she spotted the yield sign. The oncoming lane was at such an acute angle that instinctively she looked over her left shoulder for traffic with which she may have been merging. She saw no cars coming and continued for an instant when a she ran head on into the other car which was topping the hill coming south. The results were catastrophic.

Because of the severity of the collision and injuries the young girl was charged criminally in Family Court. My firm and I knew however that this child was not at fault. We started digging. Through our research and investigations we were able to determine that there had been numerous wrecks and even fatalities at the same intersection in the years preceding this wreck. Without exception, the person charged in these prior wrecks was heading north and was forced into Ware Shoals by the split in the highway and failed to yield. Even more interesting was the fact that the prior “at fault” drivers were all from out of town and unfamiliar with the intersection.

As a result of the investigation we were asked to act as lead counsel for all the people in both cars. We proceeded with discovery involving dozens of depositions of out of state witnesses, local witnesses, physicians and experts of various types. The individual cases were consolidated and prepared for trial. Pretrial motions were extensive. A special term was set in Greenwood County as we had over fifty witnesses subpoenaed and prepared to testify. The case settled for well in excess of the statutory caps on the day the trial was scheduled to begin. The young girl was vindicated and shortly after that the highway was reconfigured with simple remedial measures. To my knowledge there has not been another accident in that location since. That means more than any verdict.

The following is Mr. Smithdeal’s account of three civil appeals he has personally handled:

(a) Schenk v. National Health Care, 322 S.C. 316, 471 S.E.2d 736, S.C. App., April 29, 1996;

(b) Vaughn v. Salem Carriers and Virginia Surety Co., Court of Appeals decided November 30, 2005, unpublished;

(c) Young v. S.C. Department of Corrections, 333 S.C. 714, 511 S.E.2d 413, S.C. App., February 01, 1999.

With respect to criminal appeals, Mr. Smithdeal has personally handled, he reported the following:

“I have only assisted with two criminal appeals, was not lead counsel on the appeals, and did not argue either of them.”

Mr. Smithdeal further reported the following regarding an unsuccessful candidacy:

“In January 2009, I ran for the seat left vacant by the untimely death of Jim Johnson of the Eighth Circuit. I was one of three candidates nominated by the Judicial Merit Screening Commission. Prior to the vote of the Legislature, I withdrew my name from consideration and Eugene ‘Bubba’ Griffith was elected.”

(9) Judicial Temperament:

The Commission believes that Mr. Smithdeal’s temperament would be excellent.

(10) Miscellaneous:

Mr. Smithdeal is married to Elizabeth Clark Smithdeal. He has five children.

Mr. Smithdeal reported that he was a member of the following bar associations and professional associations:

(a) South Carolina Bar Association;

(b) South Carolina Association for Justice, Board of Governors 2001-09;

(c) South Carolina Injured Workers’ Advocates;

(d) South Carolina Association of Criminal Defense Lawyers;

(e) American Association for Justice.

Mr. Smithdeal provided that he was a member of the following civic, charitable, educational, social, or fraternal organizations:

(a) Greenwood Chamber of Commerce, General Counsel, 2006-present;

(b) Citadel Alumni Association – Life Member;

(c) HospiceCare of the Piedmont, Board of Directors, 1997-2005;

(d) Boy Scout Troop 220 – Greenwood, S.C., Treasurer, 2005-present;

(e) Greenwood Abbeville Little League, Vice President, 2007-08;

(f) Our Lady of Lourdes Catholic Church, Sunday school teacher;

(g) Knights of Columbus Council 7129- fraternal/charitable organization;

(h) Lakelands Baseball League and Greenwood Parks and Rec., baseball coach;

(i) Long Cane Hunt Club;

(j) Church softball team;

(k) Healthy Learners, Advisory Board, 2006-present;

(l) Fire Tower Hunt Club.

Mr. Smithdeal further reported:

“I take my children to school in the mornings and arrive at work every day at approximately 7:30 am. I take an hour for lunch and work until approximately 6:30 pm. I work until 5 pm on Fridays and several hours most Saturdays. My professional and personal reputation is my most valuable asset and I will always strive to uphold the integrity of our profession. I will keep the Court open at all times during scheduled business hours and will not look for an opportunity to leave early or cut a term short. Our dockets need attention and I will give it to them.”

**The Piedmont Citizens Committee on Judicial Qualification found Mr. Smithdeal to be “Qualified” for seven of the nine evaluated criteria: constitutional qualifications, ethical fitness, professional and academic ability, character, reputation, experience, and judicial temperament. They found him “Well-Qualified” for two of the nine evaluative criteria: physical health and mental stability. The Committee interviewed Joseph C. Smithdeal at the Greenwood County Courthouse during the evening of September 9, 2009. They found Mr. Smithdeal “Qualified” for the office he is seeking. The decision of the Committee was unanimous.**

(11) Commission Members’ Comments:

The Commission commented that Mr. Smithdeal’s stellar score on the Commission’s Practice and Procedures test and his able intellect would assist him well on the Circuit Court bench. They also noted his good demeanor and substantial civil practice with some criminal experience, and his ability to listen to both sides.

(12) Conclusion:

The Commission found Mr. Smithdeal qualified and nominated him for election to the Circuit Court.

**George Edward Welmaker**

**Circuit Court, Thirteenth Judicial Circuit, Seat 1**

**Commission’s Findings: QUALIFIED AND NOMINATED**

Pursuant to S.C. Code Ann. §2-19-40, the Commission waived the public hearing for Judge Welmaker since his candidacy for re-election was uncontested, the investigation did not reveal any significant issues to address, and no complaints were received.

(1) Constitutional Qualifications:

Based on the Commission’s investigation, Judge Welmaker meets the qualifications prescribed by law for judicial service as a Circuit Court judge.

Judge Welmaker was born in 1945. He is 64 years old and a resident of Easley, South Carolina. Judge Welmaker provided in his application that he has been a resident of South Carolina for at least the immediate past five years and has been a licensed attorney in South Carolina since 1970.

(2) Ethical Fitness:

The Commission’s investigation did not reveal any evidence of unethical conduct by Judge Welmaker.

Judge Welmaker demonstrated an understanding of the Canons of Judicial Conduct and other ethical considerations important to judges, particularly in the areas of ex parte communications, acceptance of gifts and ordinary hospitality, and recusal.

Judge Welmaker reported that he has not made any campaign expenditures.

Judge Welmaker testified he has not:

(a) sought or received the pledge of any legislator prior to screening;

(b) sought or been offered a conditional pledge of support by a legislator;

(c) asked third persons to contact members of the General Assembly prior to screening.

Judge Welmaker testified that he is aware of the Commission’s 48-hour rule regarding the formal and informal release of the Screening Report.

(3) Professional and Academic Ability:

The Commission found Judge Welmaker to be intelligent and knowledgeable. His performance on the Commission’s practice and procedure questions met expectations.

Judge Welmaker described his past continuing legal or judicial education during the past five years as follows:

Conference/CLE Name Date

1. Spring Judicial Conference May 6, 2009;
2. 24th Annual Criminal Law Update January 23, 2009;
3. 7th Annual Civil Law Update January 23, 2009;
4. 2008 Annual Judicial Conference August 20, 2008;
5. Spring Judicial Conference May 14, 2008;
6. 23rd Annual Criminal Law Update January 25, 2008;
7. 6th Annual Civil Law Update January 25, 2008;
8. 2007 Annual Judicial Conference August 22, 2007;
9. Spring Judicial Conference May 16, 2007;
10. 22nd Annual Criminal Law Update January 26, 2007;
11. 5th Annual Civil Law Update January 26, 2007;
12. 2006 Annual Judicial Conference August 23, 2006;
13. Spring Judicial Conference May 5, 2006;
14. 21st Annual Criminal Law Update January 27, 2006;
15. 4th Annual Civil Law Update January 27, 2006;
16. 2005 Annual Judicial Conference August 24, 2005;
17. Spring Judicial Conference May 11-13, 2005;
18. 20th Annual Criminal Law Update January 21, 2005;
19. 3rd Annual Civil Law Update January 21, 2005;
20. Seminar for Chief Judges December 10, 2004;
21. 2004 Annual Judicial Conference August 19, 2004;
22. Judicial Oath of Office August 19, 2004;
23. 2004 Orientation School for Judges July 12, 2004;
24. Breakfast Ethics Seminar January 25, 2004;
25. Torts & Insurance Practices January 24, 2004;

(z) 19th Annual Criminal Law Update January 23, 2004.

Judge Welmaker reported that he has taught the following law-related courses:

1. Taught criminal law through Louisiana College, 1973-74;
2. Coordinated seminar for, and lectured to, active duty JAG officers at Shaw Air Force Base as to South Carolina estate law;
3. Participated in legal seminar for attorneys of the 13th Judicial Circuit Solicitor’s Office;

(d) In September 2008, participated in the National Business Institute’s Civil Court Judicial Forum, “What Civil Court Judges Want You to Know,” a state-wide CLE.

Judge Welmaker reported that he has not published any books or articles.

(4) Character:

The Commission’s investigation of Judge Welmaker did not reveal evidence of any founded grievances or criminal allegations made against him. The Commission’s investigation of Judge Welmaker did not indicate any evidence of a troubled financial status. Judge Welmaker has handled his financial affairs responsibly.

The Commission also noted that Judge Welmaker was punctual and attentive in his dealings with the Commission, and the Commission’s investigation did not reveal any problems with his diligence and industry.

(5) Reputation:

Judge Welmaker reported that his last available Martindale-Hubbell rating was AV.

Judge reported the following military service:

United States Air Force - Lieutenant Colonel - XXX-XX-XXXX

Retired - Honorable Discharge

Active Duty: December, 1970 - September 1974;

Active Reserve: September, 1974 - June, 1996.

(6) Physical Health:

Judge appears to be physically capable of performing the duties of the office he seeks.

(7) Mental Stability:

Judge appears to be mentally capable of performing the duties of the office he seeks.

(8) Experience:

Judge Welmaker was admitted to the South Carolina Bar in 1970.

He gave the following account of his legal experience since graduation from law school:

Upon graduation from the University of South Carolina School of Law and admission to the South Carolina Bar, I went into the United States Air Force in December, 1970, as a Judge Advocate General (JAG).

While on active duty, I performed numerous duties, including prosecution and defense of courts martial; conducting various administrative hearings, such as discharge boards, accident investigation, and medical disability; giving advice to base commander; participating in formal labor union negotiations; handing Federal Tort Claims Act suits; and, handling other various responsibilities.

I attended a number of legal schools for specific training. While on active duty in Louisiana, I taught criminal law and criminal procedure in the Louisiana College night school.

After separating from active duty with the Air Force in 1974, I remained in the active reserves, serving as a JAG officer at Shaw Air Force Base in Sumter, South Carolina, until retirement in 1996. Similar duties were performed there, and additional training given.

On September 16, 1974, Henry F. Floyd and I hung a shingle in Pickens, South Carolina, maintaining a general law practice in a small town. In 1978, the law firm merged with William G. Acker and Kenneth D. Acker to form Acker, Acker, Floyd & Welmaker. (Through additions and departures, the firm continued as Acker, Welmaker & Allison until my election to the bench.)

In the almost three decades of private practice in Pickens, the clientele remained varied. Generally the type of legal work I did can be divided into three segments of equal duration, although not without overlaps.

At first, most of my legal works involved criminal defense, family court, wills and estates, workers’ compensation (for both claimants and employers), social security disability claims, plaintiff cases, and real estate closings.

During the second decade, my focus was more on civil trials—mostly defense work. In one of those years, I tried over two dozen cases before juries.

The final few years also involved governmental work, including representation of a municipality and the county. Often that representation would require prosecution of cases in the summary courts, and handling appeals to the South Carolina Supreme Court and Court of Appeals.

Throughout the years, there was representation of an electric cooperative, and JAG duties with the Air Force. No one could have been more blessed than I with good clients during the course of a very enjoyable career as a lawyer.

Judge Welmaker reported that he has held the following judicial office:

“I was elected Resident Judge of the Thirteenth Judicial Circuit, Seat 1, on February 4, 2004. I have served continuously since my term began, March 1, 2004.”

Judge Welmaker provided the following list of his most significant orders or opinions:

(a) State v. Laney was a death penalty case remanded by the South Carolina Supreme Court, 367 S.C. 639, 627 S.E.2d 726 (2006), and assigned to me. The primary issue in this case was the application of new standards set by the United States Supreme Court in Atkins v. Virginia, 536 U.S. 304, 122 S.Ct. 2242, 153 L.Ed.2d 335 (2002), in which that Court ruled the execution of a person with mental retardation is cruel and unusual punishment under the Eighth Amendment to the United States Constitution. I held numerous hearings, with various expert witnesses, to determine the Defendant’s mental capacity. After qualification of the jury venire, a plea to life imprisonment was entered.

(b) State v. Paige was a murder case affirmed by the South Carolina Court of Appeals, 375 S.C. 643, 654 S.E.2d 300 (2007). This trial brought into issue the balance between a defendant’s Sixth Amendment right to a fair trial and a spectator’s right to an open and public court. The South Carolina Court of Appeals affirmed my decision as trial judge, whereby I allowed non-testifying family members to wear photo buttons of the deceased victim, under specific guidelines designed to prevent undue prejudice to the jury.

(c) State v. Caldwell, 378 S.C. 268, 662 S.E.2d 474, (2008), a peeping tom case, involved three young victims. A prosecution witness’s testimony caused my declaration of a mistrial. The subsequent retrial, of which I was again trial judge, resulted in convictions by a jury. The case presented several procedural and evidentiary issues. The South Carolina Court of Appeals agreed that the charges did not require severance, upheld the identification testimony, and affirmed my interpretation as trial judge of the statute in question, S.C. Code Ann. § 16-17-470(A) (2003).

(d) State v. Hill*,* 382 S.C. 360, 675 S.E.2d 764, (2009), involved a lengthy double-murder trial. A primary issue in the case required adherence to the Fifth and Sixth Amendments to the United States Constitution. One of the State’s witnesses invoked his Fifth Amendment right to not testify, resulting in the Defendant’s assertion that his Sixth Amendment right of confrontation was denied. I determined this testimony to be collateral to the issues before the jury, overruling the Defendant’s objection. The Court of Appeals agreed. The Defendant also asserted that the jury must be instructed that an adverse inference may be made from a witness’s claim of silence under the Fifth Amendment. Again, the Court of Appeals found no error in my declining to so charge.

(e) State v. Alley, 2007 UP 559 (2007). An unpublished opinion, this case is nevertheless significant because of the Court of Appeals’ interpretation of an older South Carolina case [*State v. Worthy*, 239 S.C. 449, 123 S.E.2d 835 (1962)], in light of the more recent adoption of the South Carolina Rules of Evidence. The Court found *Worthy* still to be “good law” and upheld allowing an eyewitness to testify as to a conversation with the Defendant, even though there was a tape recording also made.

(9) Judicial Temperament:

The Commission believes that Judge Welmaker’s temperament has been and would continue to be excellent.

(10) Miscellaneous:

Judge Welmaker is married to Barbara Jean Edmonds Welmaker. He has two children.

Judge Welmaker reported that he was a member of the following bar associations and professional association:

South Carolina Bar

Judge Welmaker provided that he was not a member of any civic, charitable, educational, social, or fraternal organizations.

**The Upstate Citizen’s Committee on Judicial Qualification found Judge Welmaker to be “Well-Qualified” for each of the nine evaluative criteria: constitutional qualifications, ethical fitness, professional and academic ability, character, reputation, physical health, mental stability, experience, and judicial temperament. They also mentioned that “all comments regarding Judge Welmaker were extremely complementary regarding all aspects of the evaluative criteria.”**

(11) Commission Members’ Comments:

The Commission noted Judge Welmaker’s exemplary service on the Advisory Committee on Standards of Judicial Conduct, as well as his five years of service as a Circuit Court judge.

(12) Conclusion:

The Commission found Judge Welmaker qualified and nominated him for re-election to the Circuit Court.

**David Garrison Hill**

**Circuit Court, Thirteenth Judicial Circuit, Seat 4**

**Commission’s Findings: QUALIFIED AND NOMINATED**

Pursuant to S.C. Code Ann. §2-19-40, the Commission waived the public hearing for Judge Hill since his candidacy for re-election was uncontested, the investigation did not reveal any significant issues to address, and no complaints were received.

(1) Constitutional Qualifications:

Based on the Commission’s investigation, Judge Hill meets the qualifications prescribed by law for judicial service as a Circuit Court judge.

Judge Hill was born in 1964. He is 45 years old and a resident of Greenville, South Carolina. Judge Hill provided in his application that he has been a resident of South Carolina for at least the immediate past five years and has been a licensed attorney in South Carolina and Washington D.C. since 1990.

(2) Ethical Fitness:

The Commission’s investigation did not reveal any evidence of unethical conduct by Judge Hill.

Judge Hill demonstrated an understanding of the Canons of Judicial Conduct and other ethical considerations important to judges, particularly in the areas of ex parte communications, acceptance of gifts and ordinary hospitality, and recusal.

Judge Hill reported that he has made less than $20.00 in campaign expenditures for postage incurred for returning the application and forms.

Judge Hill testified he has not:

(a) sought or received the pledge of any legislator prior to screening;

(b) sought or been offered a conditional pledge of support by a legislator;

(c) asked third persons to contact members of the General Assembly prior to screening.

Judge Hill testified that he is aware of the Commission’s 48-hour rule regarding the formal and informal release of the Screening Report.

(3) Professional and Academic Ability:

The Commission found Judge Hill to be intelligent and knowledgeable. His performance on the Commission’s practice and procedure questions met expectations.

Judge Hill described his past continuing legal or judicial education during the past five years as follows:

Conference/CLE Name Date

(a) 19th Annual Criminal Law Update 1/23/2004;

(b) Circuit Judge’s Conference 5/2004;

(c) 2004 Orientation School for New Judges 7/12/2004;

(d) Judicial Conference 8/19/2004;

(e) Judicial Oath of Office 8/19/2004;

(f) 2004 Annual S.C. Solicitors' Conference 9/26/2004;

(g) 20th Annual Criminal Law Update 1/25/2005;

(h) Circuit Judge’s Conference 5/2005;

(i) Judicial Conference 8/2005;

(j) General Jurisdiction Course—Nat’l Jud. College 11/2005;

(k) Fourth Annual Civil Law Update 1/27/2006;

(l) 21st Annual Criminal Law Update 1/27/2006;

(m) Circuit Judges’ Conference 5/2006;

(n) 2006 Annual Judicial Conference 8/23/2006;

(o) Annual Convention 9/13/2006;

(p) Judges Conference 5/16/2007;

(q) 2007 Annual Judicial Conference 8/22/2007;

(r) Annual Meeting 11/01/2007;

(s) Annual Civil Law Update 1/25/2008;

(t) Circuit Judges’ Conference 5/2008;

(u) 2008 Judicial Conference 8/20/2008;

(v) S.C. Bar Ethics CLE 10/30/2008;

(w) SCDTAA Annual Meeting 11/13/2008;

(x) Annual Civil Law Update 1/23/2009;

(y) Annual S.C. Criminal Law Update 1/23/2009;

(z) Circuit Judges’ Conference 5/2009.

Judge Hill reported that he has taught the following law-related courses:

(a) I have made presentations on the Confrontation Clause, Batson v. Kentucky, and judicial ethics to lawyers attending S.C. Bar CLEs, SCAJ meetings and the SCDTAA Trial Academy. I have also participated on panel discussions and given case law updates at the S.C. Solicitors’ Conference.

(b) I also teach a January Interim course at Wofford College entitled “The Bill of Rights and Modern Citizenship.” This course involves intensive study of the origins and development of the Bill of Rights, and also provides the students the opportunity to be exposed to volunteer community service as they in turn teach what they have learned to students of a local literacy association who are preparing for the civics portion of the GED exam or the Naturalized Citizenship exam.

Judge Hill reported that he has published the following:

(a) “Celebrate That We’re a Nation of Laws, Not Men,” May 2, 2008 OpEd column in The Greenville News;

(b) “Lay Witness Opinions,” Sept. 2007 South Carolina Lawyer at 34;

(c) “Rule 30(j), Charlie McCarthy and The Potted Plant,” September 2005 South Carolina Lawyer at 26;

(d) Doing the Public’s Business, (2001) (with Leo H. Hill).

(4) Character:

The Commission’s investigation of Judge Hill did not reveal evidence of any founded grievances or criminal allegations made against him. The Commission’s investigation of Judge Hill did not indicate any evidence of a troubled financial status. Judge Hill has handled his financial affairs responsibly.

The Commission also noted that Judge Hill was punctual and attentive in his dealings with the Commission, and the Commission’s investigation did not reveal any problems with his diligence and industry.

(5) Reputation:

Judge Hill reported that his last available Martindale-Hubbell rating was AV.

(6) Physical Health:

Judge Hill appears to be physically capable of performing the duties of the office he seeks.

(7) Mental Stability:

Judge Hill appears to be mentally capable of performing the duties of the office he seeks.

(8) Experience:

Judge Hill was admitted to the South Carolina Bar in 1990.

He gave the following account of his legal experience since graduation from law school:

“From 1989-90, I was a law clerk to Judge Billy Wilkins on the United States Court of Appeals for the Fourth Circuit. In 1990, I joined the law firm of Hill, Wyatt & Bannister. I became a partner in the firm in 1994. I had a general practice that included civil and criminal cases and appeals in all courts. In 2000, I started the law firm of Hill & Hill, LLC with my father, Leo H. Hill. We enjoyed a wide client base and practice area, concentrating in business litigation and representation of governmental bodies including municipalities and special purpose districts. We were fortunate to be listed in the Martindale-Hubbell Register of Pre-Eminent Lawyers.”

Judge Hill reported that he has held the following judicial office:

“S.C. Circuit Court, 2004-present.”

Judge Hill provided the following list of his most significant orders or opinions:

(a) Cornelius v. Oconee County, S.C. Supreme Court Op. No. 2186 (2006).

I was invited to sit as an acting Associate Justice of the S.C. Supreme court, and wrote this opinion for the unanimous court concerning whether a 1976 voter referendum and the S.C. Constitution precluded Oconee County from expanding its sewerage system using certain financing sources.

(b) Hackworth v. Greenville County, S.C. Ct. App. Op. No. 4174 (2006)

This was a claim by the Hackworths against the Greenville County Sheriff’s office for return of monies forfeited under the gambling laws. The Court of Appeals affirmed dismissal of the claim based on the Statute of Limitations.

(c) State v. Dwight F. Jones, S.C. Ct. App. Op. No. 2006-UP-343 (2006).

This murder case was the first case I tried as a judge. Mr. Jones’ conviction was upheld on appeal.

(d) Torrence v. SCDC, S.C. Supreme Court Op. No. 26328 (2007)

This case involved a declaratory judgment action concerning the Prison Industries program. The Supreme Court affirmed dismissal of the action.

(e) Enersys, Inc. v. Jackson Lewis LLP, et al., C.A. No. 2004-CP-23-2685

This order involved significant issues concerning the attorney-client privilege and work product doctrine.

(9) Judicial Temperament:

The Commission believes that Judge Hill’s temperament has been and would continue to be excellent.

(10) Miscellaneous:

Judge Hill is married to Amanda P. Touissaint. He has three children.

Judge Hill reported that he was a member of the following bar associations and professional associations:

(a) S.C. Bar—President, Government Law Section, 1998-99; Member, House of Delegates, 1997-2004;

(b) D.C. Bar (inactive);

(c) Greenville County Bar Association—Executive Committee, 2001.

Judge Hill provided that he was a member of the following civic, charitable, educational, social, or fraternal organizations:

Greenville Country Club.

**The Upstate Citizen’s Committee on Judicial Qualification found Judge Hill to be “Well-Qualified” for each of the nine evaluative criteria: constitutional qualifications, ethical fitness, professional and academic ability, character, reputation, physical health, mental stability, experience, and judicial temperament. The committee further noted: “Our investigation revealed that Judge Hill is an outstanding jurist and is very well qualified in all aspects of the evaluative criteria.”**

(11) Commission Members’ Comments:

The Commission commented on the exceptional comments made by the Upstate Citizens Committee regarding Judge Hill and they noted his dedicated service on the bench for the past five years.

(12) Conclusion:

The Commission found Judge Hill qualified and nominated him for re-election to the Circuit Court.

**Steven H. John**

**Circuit Court, Fifteenth Judicial Circuit, Seat 1**

**Commission’s Findings: QUALIFIED AND NOMINATED**

(1) Constitutional Qualifications:

Based on the Commission’s investigation, Judge John meets the qualifications prescribed by law for judicial service as a Circuit Court judge.

Judge John was born in 1953. He is 56 years old and a resident of Little River, South Carolina. Judge John provided in his application that he has been a resident of South Carolina for at least the immediate past five years and has been a licensed attorney in South Carolina since 1978.

(2) Ethical Fitness:

The Commission’s investigation did not reveal any evidence of unethical conduct by Judge John.

Judge John demonstrated an understanding of the Canons of Judicial Conduct and other ethical considerations important to judges, particularly in the areas of ex parte communications, acceptance of gifts and ordinary hospitality, and recusal.

Judge John reported that he has not made any campaign expenditures.

Judge John testified he has not:

(a) sought or received the pledge of any legislator prior to screening;

(b) sought or been offered a conditional pledge of support by a legislator;

(c) asked third persons to contact members of the General Assembly prior to screening.

Judge John testified that he is aware of the Commission’s 48-hour rule regarding the formal and informal release of the Screening Report.

(3) Professional and Academic Ability:

The Commission found Judge John to be intelligent and knowledgeable. His performance on the Commission’s practice and procedure questions met expectations.

Judge John described his past continuing legal or judicial education during the past five years as follows:

Conference/CLE Name Date

(a) Circuit Judges Conference 5/6-8/09;

(b) 2008 SCLA Annual Convention 08/07/08;

(c) 2008 Judicial Conference 08/20-22/08;

(d) 7thAnnual Civil Law Update 01/23/09;

(e) 24th Annual S.C. Criminal Law Update 01/23/09;

(f) Circuit Judges Conference 05/16/07;

(g) 2007 Annual Judicial Conference 08/22/07;

(h) 2007 Annual Conference 09/23/07;

(i) 23rd Annual S.C. Criminal Law Update 01/25/08;

(j) 6th Annual Civil Law Update 01/25/08;

(k) National Judicial College-Handling Capital Cases 11/4-8/07;

(l) Fourth Annual Civil Law Update 01/27/06;

(m) 21st Criminal Law Update 01/27/06;

(n) Judicial Writing-National Judicial College 03/27-31/06;

(o) 20th Circuit Court Judges 05/8-10/06;

(p) 2006 Annual Judicial Conference 08/23-24/06;

(q) 2006 S.C. Annual S.C. Solicitors’ 09/24-27/06;

(r) 22nd Annual Criminal Saw Update 01/26/07;

(s) 5th Annual Civil Law Update 01/26/07;

(t) 20th Annual Criminal Law Update 01/21/05;

(u) 3rd Annual Civil Law Update-Part II 01/21/05;

(v) 2005 Circuit Court Judges 05/11/05;

(w) 2005 Circuit Court Judges 05/12/05;

(x) 2005 Circuit Judges 05/13/05;

(y) 2005 Annual Judicial Conference 08/24-25/05;

(z) Annual Meeting-SCDTTA 11/03-6/05;

(aa) S.C. Solicitors' Assoc. Conference 09/25-28/05;

(bb) 19th Annual Criminal Law Update 01/23/04;

(cc) 2nd Annual Civil Law Update 01/23/04;

(dd) 2004 S.C. Circuit Judges 05/5-7/04;

(ee) Judicial Conference 08/19/04;

(ff) Judicial Oath of Office 08/19/04;

(gg) 2004 Annual S.C. Solicitors’ Conference 09/26/04;

(hh) National Judicial College Advanced Evidence 11/15-8/04.

Judge John reported that he has not taught or lectured at any bar association conferences, educational institutions, or continuing legal or judicial education programs.

Judge John reported that he has not published any books or articles.

(4) Character:

The Commission’s investigation of Judge John did not reveal evidence of any founded grievances or criminal allegations made against him. The Commission’s investigation of Judge John did not indicate any evidence of a troubled financial status. Judge John has handled his financial affairs responsibly.

The Commission also noted that Judge John was punctual and attentive in his dealings with the Commission, and the Commission’s investigation did not reveal any problems with his diligence and industry.

(5) Reputation:

Judge John reported that his last available Martindale-Hubbell rating was AV.

(6) Physical Health:

Judge John appears to be physically capable of performing the duties of the office he seeks.

(7) Mental Stability:

Judge John appears to be mentally capable of performing the duties of the office he seeks.

(8) Experience:

Judge John was admitted to the South Carolina Bar in 1978.

He gave the following account of his legal experience since graduation from law school:

(a) LAW CLERK TO THE HONORABLE SIDNEY T. FLOYD, RESIDENT JUDGE, FIFTEENETH JUDICIAL CIRCUIT, 1978 – 1980;

(b) PRIVATE TRIAL PRACTICE, 1981 – May 2001. Opened solo practice in N. Myrtle Beach, South Carolina, in 1986, having an active trial practice in all of the State Courts. In Civil Court, cases ranging from contracts to automobile accidents to multi-million dollar construction cases; Criminal Court, cases ranging from traffic offenses to court appointed defense in death penalty cases; Family Court, cases from uncontested divorces to all manner of contested family disputes;

(c) COURT APPOINTED SPECIAL REFEREE in the Circuit Court, appointed by Judges Sidney T. Floyd and David H. Maring, Sr., in over fifty (50) cases;

(d) CERTIFIED CIRCUIT COURT ARBITRATOR, by South Carolina Supreme Court Board of Arbitration;

(e) COURT APPOINTED MEDIATOR in the Fifteenth Judicial Circuit, appointed by Judges Sidney T. Floyd and David H. Maring, Sr., in over fifty (50) cases;

(f) COURT APPOINTED GUARDIAN AD LITEM in disputed child custody cases in the Family Court of the Fifteenth Judicial Circuit, in over One Hundred (100) cases;

(g) CITY OF NORTH MYRTLE BEACH ZONING BOARD, 1993 – May, 2001;

(h) PRO BONO LAWYER FOR HORRY COUNTY DISABILITIES AND SPECIAL NEEDS AGENCY, 1993 – May, 2001.

Judge John reported that he has held the following judicial office:

“I was elected as the Resident Judge of the Fifteenth Judicial Circuit, Seat #1, on May 30, 2001. This is a court of general jurisdiction for civil and criminal court.”

Judge John provided the following list of his most significant orders or opinions:

(a) State v. Corey Sparkman, Op. No. 25816, S.C. Supreme Court;

(b) B&A Development Inc., et al. v. Georgetown County, et al., Op. No. 3877, S.C. Court of Appeals;

(c) Patricia Grand Hotel, LLC v. MacGuire Enterprises, Inc., Op. No. 4226, S.C. Court of Appeals;

(d) State of South Carolina v. Stanley Dantonio, Jr., Op. No. 4333, S.C. Court of Appeals;

(e) Terry Cartrette Tindal v. H&S Homes, LLC, Unpublished Op. No. 2005-UP-535, S.C. Court of Appeals

Judge John further reported the following regarding unsuccessful candidacies:

“In 1998 I filed as a candidate for Seat #2 of the Circuit Court, Fifteenth Judicial Circuit. I was qualified as one of the three candidates by the Judicial Merit Selection Commission for this seat. At Large Judge Paula Thomas was the eventual successful candidate. In the fall of 1998, I filed as a candidate for At Large Seat #1 of the Circuit Court of the State of South Carolina. I withdrew as a candidate for this seat which the Honorable John Milling won by acclamation. In 1999, I filed as a candidate for At Large Seat #8 of the Circuit Court of South Carolina. I was rated as qualified but not seleted for this seat which the Honorable Kenneth G. Goode won by acclamation.”

(9) Judicial Temperament:

The Commission believes that Judge John’s temperament has been and would continue to be excellent.

(10) Miscellaneous:

Judge John is married to Susan Watts John. He has one child.

Judge John reported that he was a member of the following bar associations and professional associations:

(a) South Carolina Bar Association – 1978 to present

(b) Horry County Bar Association – 1978 – 2001- active

Horry County Bar Association – 2001- present – Honorary

Judge John provided that he was a member of the following civic, charitable, educational, social, or fraternal organizations:

(a) Rotary International - 1987 - present; Rotary Club of North Myrtle Beach, 1987 - 2002; Rotary Club of Conway, 2003 - present. I have been a member of the Rotary Club of North Myrtle Beach Board of Directors and held numerous committee chairmanships. I am also a Paul Harris Fellow and a Sustaining Member and have received the perfect attendance award each year since joining in 1987.

(b) Optimist International and local North Myrtle Beach Club 1987 - 1996. I was a member of the Board of Directors and held various officer positions.

(c) Citadel Brigadier Club

(d) Horry County Citadel Club

(e) University of South Carolina Gamecock Club.

**The Pee Dee Citizens Advisory Committee found Judge John to be “Well Qualified” for each of the nine evaluative criteria: constitutional qualifications, ethical fitness, professional and academic ability, character, reputation, physical health, mental stability, experience, and judicial temperament.**

(11) Commission Members’ Comments:

The Commission commented that Judge John is known as a very thorough judge and strives to give litigants their opportunity to express their case.

(12) Conclusion:

The Commission found Judge John qualified and nominated him for re-election to the Circuit Court.

**Judge John Calvin Hayes, III**

**Circuit Court, Sixteenth Judicial Circuit, Seat 1**

**Commission’s Findings: QUALIFIED AND NOMINATED**

Pursuant to S.C. Code Ann. §2-19-40, the Commission waived the public hearing for Judge Hayes since his candidacy for re-election was uncontested, the investigation did not reveal any significant issues to address, and no complaints were received.

(1) Constitutional Qualifications:

Based on the Commission’s investigation, Judge Hayes meets the qualifications prescribed by law for judicial service as a Circuit Court Judge.

Judge Hayes was born in 1945. He is 64 years old and is a resident of Rock Hill, South Carolina. Judge Hayes provided in his application that he has been a resident of South Carolina for at least the immediate past five years and has been a licensed attorney in South Carolina since 1971.

(2) Ethical Fitness:

The Commission’s investigation did not reveal any evidence of unethical conduct by Judge Hayes.

Judge Hayes demonstrated an understanding of the Canons of Judicial Conduct and other ethical considerations important to judges, particularly in the areas of ex parte communications, acceptance of gifts and ordinary hospitality, and recusal.

Judge Hayes reported that he has not made any campaign expenditures.

Judge Hayes testified he has not:

(a) sought or received the pledge of any legislator prior to screening;

(b) sought or been offered a conditional pledge of support by a legislator;

(c) asked third persons to contact members of the General Assembly prior to screening.

Judge Hayes testified that he is aware of the Commission’s 48-hour rule regarding the formal and informal release of the Screening Report.

(3) Professional and Academic Ability:

The Commission found Judge Hayes to be intelligent and knowledgeable. His performance on the Commission’s practice and procedure questions met expectations.

Judge Hayes described his past continuing legal or judicial education during the past five years as follows:

Conference/CLE Name Date

(a) S.C. Bar Annual Criminal Law Update 2004-2009;

(b) S.C. Bar Annual Civil Law Update 2004-2009;

(c) Annual Judicial Conference 2003-2008;

(d) Circuit Court Judges Association Annual Meeting 2004-2009.

Judge Hayes reported that he has taught the following law-related courses:

(a) Solicitors’ Association - participated on panels and seminars;

(b) S.C. Defense Trial Lawyers Association - conducted presentations;

(c) S.C. Bar’s CLE Division - programs;

(d) New Judge’s Orientation - conducted presentations;

(e) Chief Judge’s School - conducted presentations;

(f) High School and Middle School Mock Trials (including nationals in Charlotte, N.C.);

(g) Defense Trial Lawyer’s Trial Academy.

Judge Hayes reported that he has published the following:

(a) Mail Fraud, 22 SCLR 434 (1970);

(b) Torts - IntraFamily Immunity, 21 SCLR 813 (1969).

(4) Character:

The Commission’s investigation of Judge Hayes did not reveal evidence of any founded grievances or criminal allegations made against him. The Commission’s investigation of Judge Hayes did not indicate any evidence of a troubled financial status. Judge Hayes has handled his financial affairs responsibly.

The Commission also noted that Judge Hayes was punctual and attentive in his dealings with the Commission, and the Commission’s investigation did not reveal any problems with his diligence and industry.

(5) Reputation:

Judge Hayes reported his last available Martindale-Hubbell rating was BV.

Judge Hayes reported the following military service:

“U.S. Army Reserve-E-6 Serial No. XXX-XX-XXXX; 1968-1974; Honorably Discharged; NCO of the Year (1973)”

Judge Hayes reported that he has held the following public office:

(a) Solicitor, City of Rock Hill - appointed (approx. 1 year);

(b) South Carolina House of Representative, 1980-84 - Elected;

(c) South Carolina Senate, 1984-91 - Elected;

(d) South Carolina Coastal Council (Fifth Congressional District) 1980 Elected.

(6) Physical Health:

Judge Hayes appears to be physically capable of performing the duties of the office he seeks.

(7) Mental Stability:

Judge Hayes appears to be mentally capable of performing the duties of the office he seeks.

(8) Experience:

Judge Hayes was admitted to the South Carolina Bar in 1971.

He gave the following account of his legal experience since graduation from law school:

(a) 1971-72, Law Clerk of Chief Justice Joseph R. Moss;

(b) 1972-1991 Hayes, Brunson and Gatlin, General Practice - 1972-91

My practice was primarily civil litigation. I also, throughout my practice, handled worker's compensation cases, social security disability cases, simple wills, and some estates. I have also handled real estate transactions including title searches and loan closings.

Judge Hayes reported that he has held the following judicial office:

“South Carolina Circuit Court-1991-present-Elected.”

Judge Hayes provided the following list of his most significant orders or opinions:

(a) Burbach v. Investors Management Corp., 326 S.C. 492, 484 S.E.2d 119;

(b) Glaze v. Grooms, 324 W.E. 249, 378 S.E.2d 841;

(c) Keith L. Simpson v. State, 97-CP-42-1911 (Unreported);

(d) State v. Thurmon O’Neil Smith, 2002-GS-46-2525 and 2526.

Judge Hayes further reported the following regarding unsuccessful candidacies:

“Court of Appeals 2003 and 2007.”

(9) Judicial Temperament:

The Commission believes that Judge Hayes’s temperament has been and would continue to be excellent.

(10) Miscellaneous:

Judge Hayes is married to Sarah Lynn Dorsey Hayes. He has six children.

Judge Hayes reported that he was a member of the following bar associations and professional association:

South Carolina Bar

Judge Hayes provided that he was not a member of any civic, charitable, educational, social, or fraternal organizations.

**The Piedmont Citizens Committee found Judge Hayes “Well-Qualified” for each of the nine evaluative criteria: constitutional qualifications, ethical fitness, professional and academic ability, character, reputation, physical health, mental stability, experience, and judicial temperament.**

(11) Commission Members’ Comments:

The Commission commented on Judge Hayes’ balanced judicial temperament, dignity, and great intellect, which has served him well as a Circuit Court jurist for 18 years.

(12) Conclusion:

The Commission found Judge Hayes qualified and nominated him for re-election to the Circuit Court.

**Lee S. Alford**

**Circuit Court, Sixteenth Judicial Circuit, Seat 2**

**Commission’s Findings: QUALIFIED AND NOMINATED**

Pursuant to S.C. Code Ann. §2-19-40, the Commission waived the public hearing for Judge Alford since his candidacy for re-election was uncontested, the investigation did not reveal any significant issues to address, and no complaints were received.

(1) Constitutional Qualifications:

Based on the Commission’s investigation, Judge Alford meets the qualifications prescribed by law for judicial service as a Circuit Court judge.

Judge Alford was born in 1942. He is 67 years old and a resident of York, South Carolina. Judge Alford provided in his application that he has been a resident of South Carolina for at least the immediate past five years and has been a licensed attorney in South Carolina since 1971.

(2) Ethical Fitness:

The Commission’s investigation did not reveal any evidence of unethical conduct by Judge Alford.

Judge Alford demonstrated an understanding of the Canons of Judicial Conduct and other ethical considerations important to judges, particularly in the areas of ex parte communications, acceptance of gifts and ordinary hospitality, and recusal.

Judge Alford reported that he has not made any campaign expenditures.

Judge Alford testified he has not:

(a) sought or received the pledge of any legislator prior to screening;

(b) sought or been offered a conditional pledge of support by a legislator;

(c) asked third persons to contact members of the General Assembly prior to screening.

Judge Alford testified that he is aware of the Commission’s 48-hour rule regarding the formal and informal release of the Screening Report.

(3) Professional and Academic Ability:

The Commission found Judge Alford to be intelligent and knowledgeable. His performance on the Commission’s practice and procedure questions met expectations.

Judge Alford described his past continuing legal or judicial education during the past five years as follows:

Conference/CLE Name Date

1. S.C. Bar Civil Law Update 2004;
2. S.C. Bar Criminal Law Update 2004;
3. Circuit Judges' Conference 2004;
4. S.C. Judicial Conference 2004;
5. Supreme Court - Judicial Oath 2004;
6. S.C. Bar How to Manage Work 2004;
7. S.C. Bar Civil Law Update 2005;
8. S.C. Bar Criminal Law Update 2005;
9. S.C. Judicial Conference 2005;
10. S.C. Circuit Judges' Assn. 2005;
11. S.C. Bar Civil Law Update 2006;
12. S.C. Bar Criminal Law Update 2006;
13. S.C. Judicial Conference 2006;
14. S.C. Circuit Judges' Assn 2006;
15. National Judicial College - S.C. 2006;
16. Judges-Journalist Workshop 2006;
17. S.C. Bar Civil Law Update 2007;
18. S.C. Bar Criminal Law Update 2007;
19. S.C. Judicial Conference 2007;
20. S.C. Circuit Judges' Conf. 2007;
21. National Judicial College - Advanced Evid. 2008;
22. S.C. Bar Civil Law Update 2008;
23. S.C. Bar Criminal Law Update 2008;
24. S.C. Judicial Conference 2008;

(y) S.C. Circuit Judges' Assn. 2008.

Judge Alford reported that he has taught the following law-related courses:

1. I have served as a speaker for several Judicial CLE's for S.C. Probate Judges and a three-day training session for new Probate Judges. Topics have included: Conducting a Jury Trial, Probate Court Jurisdiction, Trusts and Annual Update of Supreme Court Decision Affecting Probate Courts.

(b) I spoke to the S.C. Banker's Association about the new S.C. probate Code.

(c) I served as a speaker at several S.C. Bar CLE Seminars on the S.C. Probate Code. I also spoke at a S.C. Bar CLE Seminar on the S.C. Probate Practice Manual on the subject of legislative changes to claims procedures in probate estate in light of Tulsa Professional Collection Services v. Pope, 108 S. Ct. 1340.

(d) I also served as a moderator for a CLE seminar at Winthrop University for the S.C. Bar and C.P.A.'s on the S.C. Probate Code.

(e) I spoke at a training session for Chief Administrative Family Court Judges sponsored by S.C. Court Administration in January 1997 and received two (2) hours of CLE teaching credits.

(f) I spoke at the 42nd Annual Conference of the Blue Ridge Institute for Juvenile and Family Court Judges in August, 1996 on the work of the Bench-Bar Committee as a part of families and kids project founded by the Kellogg Foundation and the 1996 Children’s' Code Reform Act which grew out of the work of the committee. This annual conference is sponsored by the National Council of Juvenile and Family Court Judges.

(g) I spoke at the 43rd Annual Conference of the Blue Ridge Institute for Juvenile and Family Court Judges in August, 1997 on our efforts to combat truancy and gave an evaluation of the implementation of the 1996 reforms to the Children’s' Code.

(h) I have served as a speaker on two occasions at the annual Solicitor's Conference and Continuing Legal Education seminars.

Judge Alford reported that he has not published any books or articles.

(4) Character:

The Commission’s investigation of Judge Alford did not reveal evidence of any founded grievances or criminal allegations made against him. The Commission’s investigation of Judge Alford did not indicate any evidence of a troubled financial status. Judge Alford has handled his financial affairs responsibly.

The Commission also noted that Judge Alford was punctual and attentive in his dealings with the Commission, and the Commission’s investigation did not reveal any problems with his diligence and industry.

(5) Reputation:

Judge Alford reported that his last available Martindale-Hubbell rating was BV.

Judge Alford reported the following military service:

U.S.A.F. 1960-64 A/2c, Honorable Discharge.

(6) Physical Health:

Judge Alford appears to be physically capable of performing the duties of the office he seeks.

(7) Mental Stability:

Judge Alford appears to be mentally capable of performing the duties of the office he seeks.

(8) Experience:

Judge Alford was admitted to the South Carolina Bar in 1971.

He gave the following account of his legal experience since graduation from law school:

“I was associated with an experienced attorney in the general practice of law from 1971-77. I opened my own law office for the general practice of law in 1977. I served as Probate Judge for York County from 1979-92. I served as Family Court Judge from 1992-98. I have served as Circuit Judge from 1998 to present. In the practice of law, I participated in criminal, civil, domestic relations, probate and property cases. My caseload was evenly divided in these areas of law.”

Judge Alford reported that he has held the following judicial offices:

(a) Probate Judge for York County 1979-92. Elected by the voters of York County for four (4) year term in 1978. Re-elected in 1982, 1986, and 1990. Resigned in 1992 when elected to Family Court. Probate Courts of S.C. are Courts of Record with limited jurisdiction which includes exclusive original jurisdiction over wills, trusts, the estates of deceased persons and persons who are mentally ill or who have chronic alcohol or drug addiction etc.

(b) Family Court Judge for the 16th Judicial Circuit Seat No. 2, 1992 to 1998. Elected by the General Assembly to complete three (3) years remaining on the six (6) year term of retired judge. Re-elected to a six (6) year term in 1995. Family Courts in South Carolina are Courts of Record created by statute with limited jurisdiction. Family Courts have exclusive jurisdiction in divorces, annulments, adoptions, juvenile crimes, child custody, visitation, support, as well as abuse and neglect cases, etc.

(c) Circuit Court Judge for the 16th Judicial Circuit Seat #2 from 1998 to present. Elected by the General Assembly in 1998 and in 2004 for six (6) year terms. Circuit courts in South Carolina are Courts of Record with general jurisdiction. Circuit courts are the primary trial court in South Carolina. In General Sessions Court, circuit court has exclusive jurisdiction over criminal cases which exceed magistrate court jurisdiction up to and including capital cases. In Common Pleas Court, circuit courts have jurisdiction in all civil cases seeking more than $7,500.00. It also includes civil and criminal appeals from probate, magistrate, and municipal courts, zoning boards and post conviction relief appeals.

Judge Alford provided the following list of his most significant orders or opinions:

(a) Johnny McMillan, Jimmie Griner, and Hughsie Trowell, Respondents v. South Carolina Department of Agriculture, Petitioner. Opinion No. 26567, heard October 21, 2008 and filed November 24, 2008.

This case is included because I sat with the S.C. Supreme Court in its consideration and disposition. It was an interesting and informative experience to participate in the handling of a case at that level. I studied the record on appeal and briefs filed by both sides in advance of the hearing and participated fully in the disposition of the case.

The S.C. Supreme Court granted certiorari to review a Court of Appeals decision which upheld an order of a special referee granting respondents a recovery from the Warehouse Receipts Guaranty Fund and awarding them attorney fees.

In a per curiam opinion the Court reversed decision of the Court of Appeals upholding the special referee's order awarding respondents a recovery from the Fund.

(b) Rock Hill School district Number Three, a political subdivision of the State of South Carolina v. Catawba Indian Tribe of South Carolina, a federally reorganized Indian tribe, and all predecessors and successors in interest, including the Catawba Indian Nation of South Carolina, Inc., Defendant, The State of South Carolina, Intervener, C.A. No. 99-CP-46-1041.

I ruled in favor of the Rock Hill School district in an opinion dated March 17, 2003 which received national media coverage. The S.C. Supreme Court affirmed my decision in full on appeal.

(c) Lloyd Behr, individually and on behalf of all others similarly situated, Plaintiff v. Spring Industries, Inc., et. al, C.A . No.2001-CP-46-375; also, Rolling Investor Group, Inc. individually and on behalf of all others similarly situated, Plaintiff v. Crandall Close Bowles, et. al. , Defendants, C.A. No. 2001-CP-46-398; also, Viviana Cortes, individually and on behalf of all other similarly situated, Plaintiff v. John F. Akers, et. al, Defendants, C.A. No. 2001-CP-46-319.

In this class action lawsuit, a settlement was approved by my order dated December 18, 2002, which ended all of the above actions. That order was not appealed.

(d) State v. Wesley Aaron Shafer, 1997-GS-44-419.

This was a capital case in which Wesley Aaron Shafer was convicted of murder and an aggravated factor of robbery and sentenced to death. The case was remanded back to the State by the U.S. Supreme Court to make a factual finding whether actions by the Solicitor required that the jury be informed a life sentence meant that Shafer would never be eligible for parole.

The S.C. Supreme Court reversed the trial court as to the sentencing phase and remanded the case for a new sentencing phase trial. The General Assembly passed a statute requiring that juries be informed that life without parole meant that a defendant would never be eligible for parole.

I was appointed to preside over a new sentencing phase trial. The jury recommended a life sentence and he was sentenced to life without parole.

(e) The State-Record Co., Inc. and The Greenville News, Interveners, in RE: SCDSS v. Susan Smith, et al. 88-DR-44-11.

In this case the news media moved to have the sealed file in the above case opened. The Order discusses the development of the law as to the openness in the Courts. The Order was not appealed. There was extraordinary media coverage.

Judge Alford further reported the following regarding unsuccessful candidacies:

(a) I ran for York County Council in 1976. A long time member of the council in my district said he was not running for re-election. After I filed to run, he changed his mind and filed. I did not actively campaign and lost in a close election. The incumbent was a friend of mine.

(b) I ran for one of the nine (9) new Circuit Court positions created in 1990. Five candidates filed and were qualified. Three candidates dropped out. I lost in a fairly close election to Henry McKellar.

(c) I ran for one of the three (3) new Circuit Court Seats in 1995. I ran second out of eleven candidates who filed.

(9) Judicial Temperament:

The Commission believes that Judge Alford’s temperament has been and would continue to be excellent.

(10) Miscellaneous:

Judge Alford is married to Terri Dean Baker Alford. He has two children.

Judge Alford reported that he was a member of the following bar associations and professional associations:

(a) York County Bar Association

(b) South Carolina Bar Association

(c) South Carolina Circuit Court Judges Association.

Judge Alford provided that he was a member of the following civic, charitable, educational, social, or fraternal organization:

American Legion Post #34.

Judge Alford further reported:

Prior to the last 5 years, I held office in the following civic organizations:

(a) Past President of the S.C. United Way;

(b) Past President of the Western York County United Way;

(c) Community Action Vice President of the S.C. Jaycees;

(d) Past President of the York Jaycees;

(e) Past President of the Greater York Chamber of Commerce;

(f) Past President of the York Red Cross Chapter;

(g) Past Chairman of the York County Boy Scout Council;

(h) Executive Board of the Palmetto Council of Boy Scouts;

(i) Past President of the York Rotary Club;

(j) Past President of the York County Mental Health Association;

(k) Past President of the Camp Arc Council which established Special

Olympics and residential camps for the mentally handicapped;

(l) Past Judge Advocate for American Legion Post #34 Mason;

(m) Trustee and Director of the York County Crescent Shrine Club;

(n) Dixie Youth Baseball Council and Coach;

(o) York County Soccer League Coach.

Active member of the Trinity United Methodist Church where I taught Adult Sunday School Class for more than twenty-five (25) years; served on the Administrative Board, Board of Trustees and as President of the Men's Club, Lay Leader, Lay Speaker, Chairman of the Pastor Parish Relations Committee, Trustee, Lay Representative to the Annual Conference of the S.C. United Methodist Church. I coached youth basketball in the Rock Hill Church League for a number of years.

I received "Project of the Year" awards from the York Jaycees and was named "Key Man" and "Jaycee of the Year" by that organization. Named "Outstanding Local President" and "Outstanding State Vice President" of the S.C. Jaycees. Received the "York Jaycees' Distinguished Service Award" in 1976 and named one of the "Three Outstanding Young Men in S.C." in 1977. Received Rotary's highest award, "Paul Harris Fellow" from the York Rotary Club in 1989. Named "Shriner of the Year" by the York County Crescent Shrine Club in 1989. York County's nominee for the "Nine Who Care Award" in 1989.

As a Probate Judge, I served on the legislative study committee that drafted South Carolina's version of the Uniform Probate Code which was enacted into law by the General Assembly. I also served on the first Technical Corrections Committee for that Code.

As President of the S.C. Probate Judges' Assn., I requested that the Legislative-Governor's Committee on Mental Health and Mental Retardation appoint a task force to study the law concerning the involuntary commitment of persons with chronic addiction to alcohol and drugs. I served on that task force which met for one (1) year and drafted a proposed revision of those laws which were approved with changes by the committee and passed into law by the General Assembly.

I applied for and received a grant to study the Federal Indian Child Welfare Act and the Rights of the mentally retarded in court at the National Judicial College in September, 1994. It was timely because the Catawba Indian Tribe, located primarily in York County recently received federal recognition. Since Federal Act supersedes state law as to foster care and adoptions, it is important for Family Court Judges to have a working knowledge of the Act. I have offered to share this information with the S.C. Bar and the S.C. Family Court Judges in CLE seminars.

I actively served on the Bench-Bar Subcommittee of the S.C. Families for Kids Committee which received a $100,000.00 planning grant from the Kellogg Foundation to study and recommend changes to the foster care and adoption law and procedures in S.C. This hardworking group met primarily on Saturdays in Columbia and helped draft a grant application approved by the Kellogg Foundation for $3,000,000.00 over three years. Recommendations of that committee significantly improved emergency procedures, foster care and adoption services to children who have been abused or neglected. The 1996 Children's Code Reform Act was a product of that study.

I was designated by S.C. Court Administration to represent Family Court on a Court Improvement Program Grant Committee and attended a regional conference in Washington, D.C. on May 18 and 19, 1995. U.S. Congress allocated $35,000,000.00 over a four (4) year period. The grants were designed to encourage states to study the way courts handle foster care an adoption cases and implement a plan to improve case processing.

I assisted with the training for the juvenile arbitration program started by the Solicitor's Office with a grant from the Governor's Office.

I served as Chairman of the Governor's Juvenile Council for the 16th Judicial Circuit. I received an award from the Governor's Council for my work in leading the council.

At the request of the York County Alliance for Children and the school districts I developed forms and established court time to conduct hearings for parents of young children who had serious truancy problems.

I have presided over the York County Drug Court on a voluntary basis for a number of years at night. The program has been very successful.

I have a strong faith in our justice system. I have always tried to conduct myself in a way that would not cause anyone to lose faith in our justice system. I have tried to make jurors feel important and vital to our justice system. I have always expressed appreciation to them for their sacrifices in making our justice system work. I qualify the jury venire about 90% of the time.

I have always had a strong work ethic. I have not missed court because of illness or other reasons in fourteen (14) years and I have missed no more than ten (10) days in thirty (30) years on the bench.

I read every opinion issued by the S.C. Supreme Court and the S.C. Court of Appeals within a week after they are reported.

The years I practiced law and the thirty (30) years I have served as probate, family, and circuit judge have provided me with invaluable knowledge and appreciation for our justice system

**The Piedmont Citizen’s Committee on Judicial Qualification found Judge Alford to be “Well-qualified” for each of the nine evaluative criteria: constitutional qualifications, ethical fitness, professional and academic ability, character, reputation, physical health, mental stability, experience, and judicial temperament.**

(11) Commission Members’ Comments:

The Commission commented that Judge Alford has been an asset to the Circuit Court bench during his 11 year tenure as a resident judge for the Sixteenth Judicial Circuit and also noted his active service in his local community.

(12) Conclusion:

The Commission found Judge Alford qualified and nominated him for re-election to the Circuit Court.

**Jeffrey P. Bloom**

**Circuit Court, At-Large, Seat 8**

**Commission’s Findings: QUALIFIED, BUT NOT NOMINATED**

(1) Constitutional Qualifications:

Based on the Commission’s investigation, Mr. Bloom meets the qualifications prescribed by law for judicial service as a Circuit Court judge.

Mr. Bloom was born in 1956. He is 53 years old and a resident of Sandy Run, South Carolina. Mr. Bloom provided in his application that he has been a resident of South Carolina for at least the immediate past five years and has been a licensed attorney in South Carolina since 1985. He was also admitted to the North Carolina Bar in 1983.

(2) Ethical Fitness:

The Commission’s investigation did not reveal any evidence of unethical conduct by Mr. Bloom.

Mr. Bloom demonstrated an understanding of the Canons of Judicial Conduct and other ethical considerations important to judges, particularly in the areas of ex parte communications, acceptance of gifts and ordinary hospitality, and recusal.

Mr. Bloom reported that he has not made any campaign expenditures.

Mr. Bloom testified he has not:

(a) sought or received the pledge of any legislator prior to screening;

(b) sought or been offered a conditional pledge of support by a legislator;

(c) asked third persons to contact members of the General Assembly prior to screening.

Mr. Bloom testified that he is aware of the Commission’s 48-hour rule regarding the formal and informal release of the Screening Report.

(3) Professional and Academic Ability:

The Commission found Mr. Bloom to be intelligent and knowledgeable. His performance on the Commission’s practice and procedure questions met expectations.

Mr. Bloom described his past continuing legal or judicial education during the past five years as follows:

Conference/CLE Name Date

(a) Federal Practice Seminar (registered; pending) 10/29/09;

(b) Federal Advocacy Training 10/6/08;

(c) Federal Criminal Practice 10/16/08;

(d) Federal Criminal Practice 11/1/07;

(e) Victim Outreach Training 3/24-25/07; 4/14-15/07;

(f) 21st Annual Criminal Law Update 1/27/06;

(g) 4th Annual Civil Law Update 1/27/06;

(h) Restorative Justice 5/8-5/12/06;

(i) 27th Annual Capital Punishment 7/21-7/23/06;

(j) Habeas Institute 6/2/05;

(k) Capital PCR Training 10/14-15/04;

(l) Mental Health Concerns for Attys 12/10/04.

Mr. Bloom reported that he has taught the following law-related courses:

Adjunct Professor, USC College of Criminal Justice, 1998-1999. Taught: Constitutional Law; and American Criminal Court System.

Mr. Bloom further reported that he has taught or lectured as follows:

(a) “Arizona v. Gant (U.S. Sup. Ct. decision, April 21, 2009) and its Impact on Law Enforcement Automobile Searches,” Presentation to the First Circuit Law Enforcement Assn., June 4, 2009.

(b) “Updates in Psychiatry and the Law,” Psychiatry and the Law Seminar for Graduate Fellows, University of South Carolina School of Medicine, Wm. S. Hall Psychiatric Institute, Columbia, S.C., March 2009.

(c) “Mitigation and Forensic Psychiatry” Psychiatry and the Law Seminar for Graduate Fellows, University of South Carolina School of Medicine, Wm. S. Hall Psychiatric Institute, Columbia, S.C., March 2007; March 2008.

(d) “A Case Study of *Rompilla* and the Role of Mitigation: *Wiggins* revisited,” Psychiatry and the Law Seminar for Graduate Fellows, University of South Carolina School of Medicine, Wm. S. Hall Psychiatric Institute, Columbia, S.C., March 2006.

(e) “The Habeas Institute: Teaching the Art of Advocacy,” National Institute for Trial Advocacy, Georgia State University College of Law, Atlanta, Georgia, June 2- 5, 2005.

(f) “A Case Study of *State v. Von Dohlen* and the Role of Mitigation,” Psychiatry and the Law Seminar for Graduate Fellows, University of South Carolina School of Medicine, Wm. S. Hall Psychiatric Institute, Columbia, S.C., March 24, 2005.

(g) “Changing the Theme of Your Capital Post-Conviction Case,” N.C. Center for Death Penalty Litigation, Chapel Hill, N.C., October 2004.

(h) “*Wiggins* and the Forensic Social Worker,” Psychiatry and the Law Seminar for Graduate Fellows, University of South Carolina School of Medicine, Wm. S. Hall Psychiatric Institute, Columbia, S.C., March 25, 2004.

(i) “The Application of *Ring* to S.C. Law,” S.C. Public Defender Assn. Conference, Charleston, S.C., October 1, 2003.

(j) “Diagnosing Mental Retardation and its Impact,”Psychiatry and the Law Seminar for Graduate Fellows, University of South Carolina School of Medicine, Wm. S. Hall Psychiatric Institute, Columbia, S.C., February 2003.

(k) “Voir Dire in Capital Jury Selection”, and “Team-Building in Capital Cases,” Virginia Death Penalty College, Richmond, VA., January 31, 2003.

(l) “Psychiatric Issues and Jury Selection in Capital Cases,” Psychiatry and the Law Seminar for Graduate Fellows, University of South Carolina School of Medicine, Wm. S. Hall Psychiatric Institute, Columbia, S.C., March 28, 2002.

(m) “Psychiatric Issues & Mitigation in Capital Cases,” Psychiatry and the Law Seminar for Graduate Fellows, University of South Carolina School of Medicine, Wm. S. Hall Psychiatric Institute, Columbia, S.C., January 31, 2001.

(n) “Understanding Juries in Capital Cases,” S.C. Public Defender Assn., Myrtle Beach, S.C., October 2000.

(o) “Use of Mock Trials/Focus Groups in Preparing Capital Cases,” N.C. Academy of Trial Lawyers, Raleigh, N.C., September 2000.

(p) “Jury Selection in Capital Cases,” Georgia Indigent Defense Council Seminar, Atlanta, Georgia, July 2000.

(q) “Use of Mock Trials/Focus Groups in Preparing Capital Cases,” NAACP Legal Defense Fund Capital Litigation Seminar, Virginia, August 1999.

(r) "Prosecutorial Conduct and Witnesses", Lecture delivered to the S.C. Judicial Conference, August 22, 1997.

(s) "Caseloads, Ethics, and Remedies" S.C. Public Defender Assn. Seminar, Sept. 30, 1996.

(t) "Obtaining Adequate and Effective Resources in Capital Cases," S.C. Assn. of Criminal Defense Attorneys, February 1996.

(u) "Court Appointments in Conflict Cases," S.C. Bar Continuing Legal Education Seminar, University of South Carolina, School of Law, December 15, 1995.

(v) "Psychiatry and The Law" University of South Carolina, School of Medicine Seminar, December 16, 1994.

(w) "The Ethics of Dealing With Difficult Clients & Difficult Issues: Confronting Race & Gender," S. C. Public Defender Association Conference, September 30, 1994.

(x) "Family Court Criminal Law Seminar: Search and Seizure and Schmerber," Dept. of Juvenile Justice, August 19, 1994.

(y) "Constitutional Law," Magistrate Training Seminar, S.C. Criminal Justice Academy, July 28, 1994.

(z) "Mock Trial Demonstration: Insanity Issues," University of South Carolina, School of Medicine, May 25, 1994.

(aa) "Criminal Practice in South Carolina: The Fifth & Sixth Amendments," S.C. Bar Continuing Legal Education Seminar, University of South Carolina, School of Law, November 12, 1993.

(bb) "Panel Discussion on Indigent Defense: Practical and Ethical Problems and Solutions," S.C. Association of Criminal Defense Lawyers, October 8, 1993.

(cc) "Opening Statements, Final Arguments, and Jury Dynamics – Including Batson and Edmonson Issues (Panel Discussion of Jury Selection and Dynamics)," S.C. Bar Continuing Legal Education Seminar, University of South Carolina, School of Law, April 2, 1993.

(dd) "Death Penalty Litigation: Getting Funds and Experts," S.C. Public Defender Association Conference, October 1993.

(ee) "Ethics in Criminal Defense: What To Do, What Not To Do, And Changing Rules," S.C. Bar Continuing Legal Education Seminar, University of South Carolina, School of Law, September 3, 1992.

(ff) "Ethics: Conflicts of Interest in Criminal Law," S.C. Bar Continuing Legal Education Seminar, University of South Carolina, School of Law, 1991.

(gg) "Criminal Defense and Investigation," S.C. Association of Legal Investigators, May 11, 1990.

Mr. Bloom reported that he has not published any books or articles.

(4) Character:

The Commission’s investigation of Mr. Bloom did not reveal evidence of any founded grievances or criminal allegations made against him. The Commission’s investigation of Mr. Bloom did not indicate any evidence of a troubled financial status. Mr. Bloom has handled his financial affairs responsibly.

The Commission also noted that Mr. Bloom was punctual and attentive in his dealings with the Commission, and the Commission’s investigation did not reveal any problems with his diligence and industry.

(5) Reputation:

Mr. Bloom reported that he is not rated by Martindale-Hubbell.

Mr. Bloom reported that he has held the following public offices:

All offices below were appointed. Reports were timely filed with State Ethics Comm., and I was never subject to penalty.

(a) Commission Member, S.C. Comm. on Indigent Defense: 2006-07.

(b) Chair, Appellate Defense Comm.: 1990-98.

(c) Commission Member, S.C. Sentencing Guidelines Comm.: 1990-96.

(d) Zoning Board of Appeals, City of North Myrtle Beach, S.C.: 1989-92.

(6) Physical Health:

Mr. Bloom appears to be physically capable of performing the duties of the office he seeks.

(7) Mental Stability:

Mr. Bloom appears to be mentally capable of performing the duties of the office he seeks.

(8) Experience:

Mr. Bloom was admitted to the South Carolina Bar in 1985.

He gave the following account of his legal experience since graduation from law school:

(a) 1984 – Brunswick County, N.C.; Juvenile Court;

(b) 1985 – Neighborhood Legal Aid Assn., Conway, S.C.: Civil and Family Court;

(c) 1985-92 – Horry County Public Defender Office, Conway, S.C.;

(d) Began as an Assistant Public Defender. Served as Chief Public Defender 1988-92;

(e) 1992-99 – Richland County Public Defender Office, Columbia, S.C. Served as Chief Public Defender;

(f) 1999-Present. Private Practice. I have handled capital trial, appellate, and post-conviction cases. In February 2006, I began accepting appointments and assisting the Calhoun County Public Defender Office, St. Matthews, S.C. I have also handled pro bono cases in civil court, including bankruptcy, landlord-tenant, magistrate court, workers compensation, and similar cases. I continue to donate more than 100 hours pro bono services annually.

Mr. Bloom further reported:

“I have handled complex criminal cases for more than 20 years (representing defendants) as a Public Defender in two counties, Horry and Richland. I have also, since 2006, begun handling criminal appointments and pro bono criminal cases in Calhoun County (please contact, for any references in this regard, Calhoun County Public Defender Martin Banks: P.O. Box 243, St. Matthews, S.C., 29135; # 803-874-2100). This includes the trial level, appellate, and post-conviction stages. Beginning about 2004, I began handling federal criminal cases, too. Cases handled in the last 5 years include numerous complex capital cases and numerous criminal cases, such as: *State v. (Rita) Bixby,* 373 S.C. 74, 644 S.E.2d 54 (2007). This case set the precedent in that a defendant charged as an accessory before the fact to murder cannot be subject to capital punishment as a principal. Other issues in such cases have involved constitutional questions such as due process, search and seizure, effective assistance of counsel, and related issues. Similar case examples can be listed if necessary.

In civil cases, I have handled numerous capital post-conviction cases, which operate under the rules of civil procedure and are treated as such by the court. Case examples include: *Charping v. Ozmint,* Mem. Op. 2006-MO-024 (S.C. July 3, 2006) and *Von Dohlen v. State,* 360 S.C. 598, 602 S.E.2d 738 (2004). I have also handled pro bono cases in civil court representing mainly defendants, including bankruptcy, landlord-tenant, magistrate court, workers compensation, and similar cases. While I have not handled numerous civil litigation–type cases, my experience with the civil rules and procedures in the numerous aforementioned cases have exposed me to the arena of civil law.”

Mr. Bloom reported the frequency of his court appearances during the last five years as follows:

(a) federal: more than 35;

(b) state: more than 70.

Mr. Bloom reported the percentage of his practice involving civil, criminal, and domestic matters during the last five years as follows:

(a) civil: 50% (including capital PCR cases which are treated as

civil cases);

(b) criminal: 50%;

(c) domestic: none.

Mr. Bloom reported the percentage of his practice in trial court during the last five years as follows:

(a) jury: 25%;

(b) non-jury: 75%.

Mr. Bloom provided that he most often served as lead counsel.

The following is Mr. Bloom’s account of his five most significant litigated matters:

(a)State v. (Rita) Bixby*,* 373 S.C. 74, 644 S.E.2d 54 (2007). This case set the precedent in that a defendant charged as an accessory before the fact to murder cannot be subject to capital punishment as a principal.

(b) Kelly v. Ozmint*,* 7th Cir. Court of Common Pleas and S.C. Sup.Ct.; 5/24/06, cert. den., affirming Circuit Court’s grant of relief (no reported decision). This case established a number of significant constitutional claims, including the constitutional mandate that *race* cannot play any part of the prosecutorial decision to seek the death penalty.

(c)Von Dohlen v. State,360 S.C. 598, 602 S.E.2d 738 (2004). First S.C. Supreme Court case which adopted, interpreted and applied the U.S. Supreme Court recent precedent of *Wiggins v. Smith,* 539 U.S. 510 (2003).

(d)U.S. v. Reid*,* 523 F.3d 310 (4th Cir. 2008). I represented defendant at trial. While the appeal was unsuccessful for the defendant, it established important sentencing principles in federal court.

(e)Blakeney v. Branker*,* 314 Fed. Appx. 572, 2009 U.S.App.LEXIS 4509 (4th Cir. 2009). Appeal in 4th Circuit Court of Appeals; petition for certiorari pending in the U.S. Supreme Court. This was a complicated capital post-conviction case in U.S. District Court in N.C. involving race issues in jury selection, ineffective assistance of counsel at sentencing, and discovery issues.

The following is Mr. Bloom’s account of five civil appeals he has personally handled:

(a) Charping v. Ozmint*,* Mem. Op. 2006-MO-024 (S.C., July 3, 2006), affirming Circuit Court’s grant of relief;

(b) Kelly v. Ozmint, 7th Cir. Court of Common Pleas and S.C. Sup.Ct.; 5/24/06, cert. den. On appeal by the State, affirming Circuit Court’s grant of relief;

(c)Von Dohlen v. State,360 S.C. 598, 602 S.E.2d 738 (2004);

(d) Lawrence v. State,1st Circuit Court of Common Pleas and S.C. Sup. Ct.; 8/08, cert. den., affirming Circuit Court’s grant of relief. (handled appeal pro bono);

(e) Credell v. State, appeal dismissed. (appeal handled pro bono).

The following is Mr. Bloom’s account of the criminal appeals he has personally handled:

(a)State v. (Rita) Bixby*,* 373 S.C. 74, 644 S.E.2d 54 (2007);

(b) State v. Crisp*,* 362 S.C. 412, 608 S.E.2d 429 (2005). Established the parameters for Circuit Court in accepting a guilty plea in a capital case. (I was appointed by the S.C. Supreme Court and served pro bono in this appeal);

(c)State v. Cockerham,294 S.C. 380, 365 S.E.2d 22 (19988). Established 5th Amendment protections for the defendant as applied to the prosecutor’s closing argument. (brief no longer available due to age of case; may be requested from S.C. Supreme Court library if necessary).

Mr. Bloom further reported the following regarding an unsuccessful candidacy:

Candidate for First Circuit Court Seat # 1 August 2008 – February 2009.

(9) Judicial Temperament:

The Commission believes that Mr. Bloom’s temperament would be excellent.

(10) Miscellaneous:

Mr. Bloom is not married. He has two children.

Mr. Bloom reported that he was a member of the following bar associations and professional associations:

(a) S.C. Bar;

(b) N.C. Bar;

(c) S.C. Assn. of Criminal Defense Lawyers;

(d) Calhoun County Bar;

(e) Richland County Bar;

(f) American Society of Trial Consultants;

(g) Formerly a member of the S.C. Public Defender Assn. and served as President from 1990-96.

Mr. Bloom provided that he was a member of the following civic, charitable, educational, social, or fraternal organizations:

(a) Scoutmaster, Boy Scouts of America, Troop 397, Asbury Methodist Church, 2005-Present;

(b) Asst. Clinical Professor of Neuropsychiatry and Behavioral Science, USC School of Medicine, 1999-Present. (serve pro bono);

(c) Former Board Member, Domestic Abuse Center.

Mr. Bloom further reported:

(a) I am an Eagle Scout and registered member of the Boy Scouts of America (BSA) for over 20 years. I am a member of the honored society in BSA of the Order of the Arrow, as a Vigil Honor member. I have been through adult “Woodbadge” training which centers on group and leader dynamics. Boy Scouts is a very big part of my life, and the Boy Scout Oath and Law guide my life.

(b) Awarded Pro Bono Attorney of the Year by the S.C. Bar (1/26/06) for 2005. I donate more than 100 pro bono hours annually.

(c) Moot Court judge at the USC-School of Law for numerous years.

(d) Victim Outreach training, along with Restorative Justice training, as noted above, has sensitized me to the needs of victims and victims’ families.

(e) Served as a Special Master in civil case of Hall v. Murphree (Case No. 08-CP-09-101).

**The Midlands Citizen’s Committee on Judicial Qualification found Mr. Bloom to be “Well-Qualified” for each of the nine evaluative criteria: constitutional qualifications, ethical fitness, professional and academic ability, character, reputation, physical health, mental stability, experience, and judicial temperament. The Committee stated in summary that, “Mr. Bloom is a very eminently qualified and a highly regarded candidate. We are confident he would most ably serve on the Circuit Court in an outstanding manner.”**

(11) Commission Members’ Comments:

The Commission commented that they were very impressed with Mr. Bloom’s test score on the Commission’s practice and procedure test. They noted that he was well-spoken at the public hearing and has extensive court room experience, which would serve him well on the Circuit Court bench.

(12) Conclusion:

The Commission found Mr. Bloom qualified, but not nominated, to serve as a Circuit Court judge.

**David Craig Brown**

**Circuit Court, At-Large, Seat 8**

**Commission’s Findings: QUALIFIED AND NOMINATED**

(1) Constitutional Qualifications:

Based on the Commission’s investigation, Mr. Brown meets the qualifications prescribed by law for judicial service as a Circuit Court judge.

Mr. Brown was born in 1969. He is 40 years old and a resident of Florence, South Carolina. Mr. Brown provided in his application that he has been a resident of South Carolina for at least the immediate past five years and has been a licensed attorney in South Carolina since 1998.

(2) Ethical Fitness:

The Commission’s investigation did not reveal any evidence of unethical conduct by Mr. Brown.

Mr. Brown demonstrated an understanding of the Canons of Judicial Conduct and other ethical considerations important to judges, particularly in the areas of ex parte communications, acceptance of gifts and ordinary hospitality, and recusal.

Mr. Brown reported that he has not made any campaign expenditures.

Mr. Brown testified he has not:

(a) sought or received the pledge of any legislator prior to screening;

(b) sought or been offered a conditional pledge of support by a legislator;

(c) asked third persons to contact members of the General Assembly prior to screening.

Mr. Brown testified that he is aware of the Commission’s 48-hour rule regarding the formal and informal release of the Screening Report.

(3) Professional and Academic Ability:

The Commission found Mr. Brown to be intelligent and knowledgeable. His performance on the Commission’s practice and procedure questions met expectations.

Mr. Brown described his past continuing legal or judicial education during the past five years as follows:

Conference/CLE Name Date

(a) Mediation Certification Training and Advanced

Negotiating Workshop 08/2009;

(b) U.S. Sentencing Guideline Seminar 07/2009;

(c) CJA Mini Seminar 05/2009;

(d) National Criminal Defense College 07/2008;

(e) Criminal Justice Act Mini-Seminar 08/01/08;

(f) 17th Annual Criminal Practice 10/05/07;

(g) Mandatory ADR Training 09/08/06;

(h) 2006 Public Defender Conf. 09/25/06;

(i) 20th Annual Criminal Law Update 01/21/05;

(j) Federal Sentencing Guidelines 03/03/05;

(k) Attorney EOF Training 03/08/05;

(l) How to Successfully Resolve Automobile Accidents in S.C. 12/02/05;

(m) Workers’ Compensation in S.C. 12/07/05;

(n) Examining and Resolving Title Issues in S.C. 12/14/05;

(o) Federal Criminal Practice 2004 05/13/04;

(p) Blakely v Washington Seminar 07/21/04;

(q) Revised Lawyer’s Oath 10/19/04;

(r) Accident Litigation: Trying a Wreck 03/21/03;

(s) 2003 S.C. Tort Law Update 09/26/03.

Mr. Brown reported that he has taught the following law-related courses:

(a) Francis Marion University – Adjunct Professor – Business Law.

August 1999 – May 2005.

(b) Florence-Darlington Technical College – Adjunct Professor – Business

Law. March 7, 2000 – May 11, 2000.

Mr. Brown reported that he has not published any books or articles.

(4) Character:

The Commission’s investigation of Mr. Brown did not reveal evidence of any founded grievances or criminal allegations made against him. The Commission’s investigation of Mr. Brown did not indicate any evidence of a troubled financial status. Mr. Brown has handled his financial affairs responsibly.

The Commission also noted that Mr. Brown was punctual and attentive in his dealings with the Commission, and the Commission’s investigation did not reveal any problems with his diligence and industry.

(5) Reputation:

Mr. Brown reported that his Martindale-Hubbell rating is BV.

Mr. Brown reported that he has held the following public office:

Florence County Voter Registration and Election Commission. Appointed March 2007 and resigned on February 5, 2008. While serving on this Commission, I did timely file my report with the State Ethics Commission.

(6) Physical Health:

Mr. Brown appears to be physically capable of performing the duties of the office he seeks.

(7) Mental Stability:

Mr. Brown appears to be mentally capable of performing the duties of the office he seeks.

(8) Experience:

Mr. Brown was admitted to the South Carolina Bar in 1998.

He gave the following account of his legal experience since graduation from law school:

(a) Judicial Law Clerk, for the Honorable M. Duane Shuler, South Carolina Circuit Court; Aug. 1997 – Summer 1998;

(b) Bridges, Orr, Derrick & Ervin – Aug. 1998 – April 2001

Engaged in the practice of civil litigation, primarily defense;

(c) The Law Office of D. Craig Brown, P.C. – May 2001 – present. Engaged in the practice of civil litigation, (plaintiff and defense) and criminal defense, (state and federal);

(d) Florence County Public Defender – (Part-time) – July 2006 – August 2007. Engaged in the practice of criminal defense in the South Carolina Court of General Sessions;

(e) Marion County Public Defender – (Part-time) – July 2006 – present. Engaged in the practice of criminal defense in the South Carolina Court of General Sessions.

Mr. Brown further reported:

Throughout my legal career, I have tried civil and criminal cases. My experience as a criminal trial attorney includes defending such minor offenses as “unlawful possession of a weapon” and more complex felony cases such as murder.

The most recent murder case I tried was in June of 2008. The case initially was ruled a suicide. Approximately four months later, the case was ruled a homicide based upon gunshot residue found on my client, his mother, and the decedent. The trial of the case involved numerous evidentiary and scientific issues related to gunshot residue, location of the wound, and statements given by my client prior to his arrest. After a week-long trial, the jury convicted my client of manslaughter, rather than murder, and he received a sentence of eight years.

My experience in civil matters goes back to the fall of 1998, when I began practicing law. The primary types of matters handled by me include personal injury cases (plaintiff and defense). The primary issues involved have been liability on behalf of the defendant, and damages on behalf of the plaintiff. One case I defended and tried in Marlboro County involved the legal issue of intoxication of the defendant and whether his intoxication was the proximate cause of the accident. The defense of the case required me to argue the facts and law related to defendant’s intoxication. The trial resulted in a favorable finding for my client, the defendant.

Mr. Brown reported the frequency of his court appearances during the past five years as follows:

(a) federal: Approximately 5-7 times a month;

(b) state: Approximately 5 times a month.

Mr. Brown reported the percentage of his practice involving civil, criminal, and domestic matters during the past five years as follows:

(a) civil: 45%;

(b) criminal: 50%;

(c) domestic: 5%.

Mr. Brown reported the percentage of his practice in trial court during the past five years as follows:

(a) jury: 95%;

(b) non-jury: 5%.

Mr. Brown provided that he most often served as sole counsel. He further stated, “However, I have served as chief counsel and associate counsel where more than one attorney was involved.”

The following is Mr. Brown’s account of his five most significant litigated matters:

(a) United States v. Cherisme – This defendant was charged in federal district court with a drug conspiracy along with two other co-defendants. One of the co-defendants cooperated with the government while Cherisme and another co-defendant (his cousin) went to trial. This case was significant in that it involved many evidentiary issues such as the testimony of the cooperating co-defendant, the admissibility of a voluminous amount of phone records, and issues pertaining to Federal Rules of Evidence Rule 404(b) (Character Evidence – Other Crimes, Wrongs or Acts). Defendant Cherisme and the other co-defendant that went to trial were both convicted. The conviction is currently on appeal.

(b) State v. Joshua Weatherford – This was a case that was initially ruled a suicide. Approximately four months after the decedent’s death, the defendant was one of two individuals charged with murder, due to gunshot residue tests performed on the defendant and his co-defendant on the night of the decedent’s death. The case was significant due to legal issues pertaining to gunshot residue which was presented by the state’s expert during their trial and by the defense. The jury convicted the defendant after a week-long trial of voluntary manslaughter, rather than murder, and he received a sentence of eight years.

(c) State v. Brockington – The defendant was charged with attempted lewd act. The case went to trial. In defending the case, one important legal issue that was raised involved statements given by unavailable witnesses which were exculpatory. The statements were admitted and the case ended in a mistrial after the jury could not reach a verdict. The case has never been called again for trial.

(d) Keels v. Poston, Unpublished Opinion No. 2005-UP-039. The defendant was sued for negligence. The case was tried and the Defendant was found liable in the amount of $35,000.00. This case significant because the defendant was charged with failure to yield right-of-way. The plaintiff had medical bills totaling approximately $7,000.00 and only obtained a verdict of $35,000.00 in Williamsburg County, where verdicts are typically higher.

(e) Ray v. Radford – The defendant, who was intoxicated at the time of the accident, was sued for negligence. The case was significance because of the issues relating to the defendant’s intoxication and whether or not his intoxication was the proximate cause of the accident. At the conclusion of the trial, a defense verdict was returned, wherein the jury determined that the defendant’s intoxication was not the proximate cause of the accident.

The following is Mr. Brown’s account of the civil appeals he has personally handled:

(a) Amerson v. Ervin, et. al., Appealed from the South Carolina Court of Common Pleas. Decision filed in S.C. Court of Appeals on January 18, 2006. Unpublished Opinion No. 2006-UP-044.

(b) Keels v. Poston, Appealed from the South Carolina Court of Common Pleas. Decision filed in S.C. Court of Appeals on January 14, 2005. Unpublished Opinion No. 2005-UP-039.

The following is Mr. Brown’s account of five criminal appeals he has personally handled:

(a) State v. James Rogers, S.C. Court of Appeals, March 13, 2006. 368 S.C. 529, 629 S.E.2d 679 (2006).

(b) State v. Christopher Earl Lane – S.C. Court of Appeals, June 8, 2007. Unpublished Opinion No. 2007-UP-302.

(c) U.S. v. Barry Wayne Griggs, U.S. Court of Appeals. Unpublished Opinion July 30, 2007, 241 Fed. Appx. 155 (2007).

(d) U.S. v. Rodney Barner, U.S. Court of Appeals. Unpublished Opinion, August 29, 2007, 238 Fed. Appx. 970 (2007).

(e) U.S. v. Charles Jamal Huggins, U.S. Court of Appeals. Unpublished Opinion, April 20, 2006, 176 Fed. Appx. 420 (2006).

Mr. Brown further reported the following regarding an unsuccessful candidacy:

“I previously ran for Circuit Court, At Large, Seat No. 1. The screening process took place in the Fall of 2008. The Judicial Merit Selection Commission found that I was qualified and nominated me for election. The election for this particular seat took place in February 2009. I withdrew as a candidate on the morning of the election.”

(9) Judicial Temperament:

The Commission believes that Mr. Brown’s temperament would be excellent.

(10) Miscellaneous:

Mr. Brown is married to Kay Hunt Brown. He has three children.

Mr. Brown reported that he was a member of the following bar associations and professional associations:

(a) South Carolina Bar Association;

(b) Florence County Bar Association.

Mr. Brown provided that he was a member of the following civic, charitable, educational, social, or fraternal organizations:

(a) Pee Dee Area Citadel Club – President 2005;

(b) Florence YMCA – Lend-A-Hand Contributor;

(c) Florence County T-Ball Baseball Coach - 2008;

(d) Florence County Small Fry Baseball Coach – 2009;

(e) Upward Soccer Coach.

Mr. Brown further reported:

“I have had many life experiences that I believe would reflect positively upon my candidacy and should be considered by the Commission for the position that I seek. I have always been taught the value of honesty, integrity, hard work and respect for others. These values were instilled within me at a very young age by my parents. They have been applied in all of my endeavors which include the following: cutting and packaging gladiolas on a gladiola farm; working as an attendant at a service station pumping gas, changing tires and servicing automobiles; working third shift at Tupperware Manufacturing Plant on the production line; and working as a Probation Agent with the South Carolina Department of Probation, Parole and Pardon Services. I believe that these work experiences, along with my experience practicing law, have equipped me and better prepared me to relate to many different people and understand their circumstances.”

**The Pee Dee Citizen’s Committee on Judicial Qualification found Mr. Brown to be “Well-Qualified” for each of the nine evaluative criteria: constitutional qualifications, ethical fitness, professional and academic ability, character, reputation, physical health, mental stability, experience, and judicial temperament. They also found that “Mr. Brown would make an excellent judge.”**

(11) Commission Members’ Comments:

The Commission commented that Mr. Brown’s great intellect was demonstrated by his outstanding performance on the Commission’s Practice and Procedure Test. The Commission also noted his diverse civil and criminal experience, which would be an asset in serving as a Circuit Court judge.

(12) Conclusion:

The Commission found Mr. Brown qualified and nominated him for election to the Circuit Court.

**Eric K. Englebardt**

**Circuit Court, At-Large, Seat 8**

**Commission’s Findings: QUALIFIED, BUT NOT NOMINATED**

(1) Constitutional Qualifications:

Based on the Commission’s investigation, Mr. Englebardt meets the qualifications prescribed by law for judicial service as a Circuit Court Judge.

Mr. Englebardt was born in 1964. He is 45 years old and a resident of Greenville, South Carolina. Mr. Englebardt provided in his application that he has been a resident of South Carolina for at least the immediate past five years and has been a licensed attorney in South Carolina since 1989. Mr. Englebardt was also admitted to the N.C. Bar in 1990.

(2) Ethical Fitness:

The Commission’s investigation did not reveal any evidence of unethical conduct by Mr. Englebardt.

Mr. Englebardt demonstrated an understanding of the Canons of Judicial Conduct and other ethical considerations important to judges, particularly in the areas of ex parte communications, acceptance of gifts and ordinary hospitality, and recusal.

Mr. Englebardt reported that he has not made any campaign expenditures.

Mr. Englebardt testified he has not:

(a) sought or received the pledge of any legislator prior to screening;

(b) sought or been offered a conditional pledge of support by a legislator;

(c) asked third persons to contact members of the General Assembly prior to the screening.

Mr. Englebardt testified that he is aware of the Commission’s 48-hour rule regarding the formal and informal release of the screening report.

(3) Professional and Academic Ability:

The Commission found Mr. Englebardt to be intelligent and knowledgeable. His performance on the Commission’s practice and procedure questions met expectations.

Mr. Englebardt described his past continuing legal or judicial education during the past five years as follows:

Conference/CLE Name Date

(a) SCDTAA Joint Meeting 7/22/2004;

(b) NBI How to Litigate Your First Civil Trial in S.C. 12/17/2004;

(c) District of South Carolina CM/ECF 2/3/2005;

(d) ABA Transportation MegaConference 3/3/2005;

(e) SCDTAA Joint Meeting 7/28/2005;

(f) SCDTAA Annual Meeting 11/3/2005;

(g) Changes to South Carolina 2/25/2006;

(h) SCDTAA Joint Meeting 7/27/2006;

(i) Changing the Rules, a Review 11/8/2006;

(j) SCDTAA Annual Meeting 11/9/2006;

(k) Uni-State Lawyers 3/3/2007;

(l) NBI The Art of Settlement 4/24/2007;

(m) SCDTAA Trial Academy 6/6/2007;

(n) NBI Mediation A Valuable Tool 7/24/2007;

(o) SCDTAA Annual Meeting 11/1/2007;

(p) Ounce of Prevention is Worth a Pound of Cure 2/27/2008;

(q) SCDTAA Joint Meeting 7/24/2008;

(r) SCDTAA Annual Meeting 11/13/2008;

(s) SCDTAA Trial Academy 6/5/2009.

Mr. Englebardt reported that he has taught the following law-related courses:

“I have taught sections on opening and closing arguments, expert cross-examination as a group leader at the SCDTAA Trial Academy.

I have also served as an instructor at NBI CLEs including “Mediation A Valuable Tool”, “How to Litigate Your First Civil Trial” and “The Art of Settlement”.

I also recently served as a judge at the most recent SCDTAA Trial Academy, presiding over a civil case tried by young attorneys, and critiquing them during jury deliberations.”

Mr. Englebardt reported that he has published the following:

“I have authored course materials for NBI Seminars “What to Expect in Your First Civil Trial in South Carolina”, December 2004 and “How a Mediator Can Help You”, a chapter in course materials for NBI Course “Mediation, A Valuable Tool for Litigation", July 2007.”

(4) Character:

The Commission’s investigation of Mr. Englebardt did not reveal evidence of any founded grievances or criminal allegations made against him. The Commission’s investigation of Mr. Englebardt did not indicate any evidence of a troubled financial status. Mr. Englebardt has handled his financial affairs responsibly.

The Commission also noted that Mr. Englebardt was punctual and attentive in his dealings with the Commission, and the Commission’s investigation did not reveal any problems with his diligence and industry.

(5) Reputation:

Mr. Englebardt reported that his Martindale-Hubbell rating is BV.

(6) Physical Health:

Mr. Englebardt appears to be physically capable of performing the duties of the office he seeks.

(7) Mental Stability:

Mr. Englebardt appears to be mentally capable of performing the duties of the office he seeks.

(8) Experience:

Mr. Englebardt was admitted to the South Carolina bar in 1989.

He gave the following account of his legal experience since graduation from law school:

Since I graduated from law school my legal practice has been with three law firms. I began as an associate at Haynsworth, Marion, McKay & Guerard where I had served as a law clerk between my second and third year of law school. I started work in August 1989 and was admitted to the Bar in November of that year. I then was admitted to the North Carolina Bar after the February Bar Exam in 1990 and have been admitted to the United States District Court in South Carolina and all three districts in North Carolina. As a result of having spent some time working in the defense of the asbestos cases I have practiced in all three federal districts in North Carolina as well as the district of South Carolina on a variety of other cases as well. Additionally, I have tried cases in State Court of North Carolina as well as many cases in South Carolina.

In January of 1998 I became a shareholder at Haynsworth, Marion, McKay & Guerard where I continued until January of 2001, shortly after the merger where that firm became known as Haynsworth Sinkler Boyd.

In January of 2001 I became a partner at Clarkson, Walsh, Rheney & Turner, P.A. I served as managing shareholder at that firm from July 1, 2004 through December 31, 2004.

In September 2005 I became a shareholder at Turner, Padget, Graham & Laney, P.A. My practice has focused generally on the areas of insurance defense litigation, though I have handled a variety of plaintiff's cases as well as a small number of criminal/domestic matters. In 2000 I became certified as a mediator and have practiced as a mediator, mediating over 500 cases pending in both State and Federal Court. I am proud to have been listed in “Best Lawyers in America” since 2007 for my ADR practice and recently was pleased to receive notice that I will be so included in 2010. Also, I am now serving with regularity as an arbitrator, requiring me to make rulings and decisions as a nonjury judge.

Mr. Englebardt further reported:

My experience in criminal matters is admittedly limited. I have appeared in traffic court on a couple of occasions in the past for clients, but have never fully handled a significant criminal matter. Recently, however, I have begun participating in Youth Court, presiding over misdemeanor criminal matters arising in the schools. This has given me some additional exposure to the criminal process in terms of the procedures and penalties, as well as interaction with members of law enforcement and members of the Criminal Defense Bar who oversee the program.

Additionally, several times in the last few months I have attended General Sessions Court as an observer, trying to get a feel for the ebb and flow of criminal procedure.

Obviously, I will need to overcome my lack of experience in criminal matters were I to be elected as a circuit judge, however, I have always prided myself as being a quick learner and, despite not having had a true criminal practice, I have always kept abreast of the case law involving criminal cases by reading the advanced sheets regularly. Obviously, it will take some study as well as listening to become familiar with criminal procedure, however, I believe I have a good handle of the Rules of Evidence and would be able to overcome my lack of experience in criminal matters to be an effective circuit judge.

Mr. Englebardt reported the frequency of his court appearance in the past five years as follows:

(a) federal: 4-5 times;

(b) state: I have had 5 or so jury trials and many court appearances in State Court in this time period. As the practice has shifted toward more mediation, many few cases have gone to trial in the Upstate. I would estimate that I have tried 50 trials before a jury in my career.

Mr. Englebardt reported the percentage of his practice involving civil, criminal, and domestic matters as follows:

(a) civil: 96%;

(b) criminal: 2%;

(c) domestic: 2%.

Mr. Englebardt reported the percentage of his practice in trial court during the past five years as follows:

(a) jury: 85%;

(b) non-jury: 15% - Motion Hearings; I have not had any non-jury trials in that time period.

Mr. Englebardt provided that he most often served as sole counsel.

The following is Mr. Englebardt’s account of his five most significant litigated matters:

(a) South Carolina Distributors and Livingston v. Livingston, et.al. This was a multimillion dollar case involving a breach of contract and probate dispute over a family business tried in Cherokee County.

(b) \_\_\_\_\_\_\_\_\_\_ v. CSX. This was a wrongful death and personal injury case involving two occupants of a car hit by a CSX train at a crossing in Joanna, South Carolina. This was a jury trial in front of The Honorable G. Ross Anderson in Federal Court in Anderson, South Carolina. After a week of trial, the jury granted us a defense verdict.

(c) Davis v. King Chris d/b/a McDonalds. This was a lawsuit against McDonalds Corporation over an injury which occurred in one of its parking lots. This case received much media exposure as at issue was the safety of the McDonalds playlands for children outside many of their restaurants. The case involved many complicated engineering and design issues.

(d) Register v. US Steel Corporation. This was a premises liability case involving a severe injury. It was tried to a verdict in Anderson County.

(e) Martha Knecht v. Linda Long, Melvin Dennis Long, Sherlon Tench, Dennis Tench, Cynthia Masters and David Masters. This was a lawsuit involving 8 separate causes of action for malicious prosecution, civil and criminal assault allegations, abuse of process, conversion, breach of fiduciary duties, financial exploitation, etc. It lasted for more than 3 years, and involved several criminal hearings, motion hearings and eventually a 3-day jury trial resulting in dismissal of all causes of action against 5 of my clients prior to trial and defense verdicts for my remaining client.

The following is Mr. Englebardt’s account of the five civil appeals he has personally handled:

(a) Bear Enterprises v. County of Greenville, 319 S.C. 137, 459 S.E.2d 883 (Ct. App. 1995);

(b) Camlin v. Bilo, 311 S.C. 197, 428 S.E. 2d 6 (Ct. App. 1993);

(c) Threatt Michael Construction Company v. C&G Electric, 305 S.C. 147, 406 S.E.2d 374 (Ct. App. 1991);

(d) Preckler v. Owens- Corning, 60 F.3d 824, 1995 WL 417731 (4th Cir. 1995);

(e) Lindsey v. Vann, 2004-UP-442 (Ct. App).

Mr. Englebardt reported he has not personally handled any criminal appeals.

Mr. Englebardt further reported the following regarding unsuccessful candidacies:

Thirteenth Judicial Circuit Seat 4 in 2003. I was a candidate for Circuit Court Seat #4. There were 7 candidates in that race, and I was found qualified and nominated by the Judicial Merit Screening Commission. I withdrew prior to the election in the General Assembly.

Thirteenth Judicial Circuit Seat 3 in 2009. I was once again honored to have been found qualified and nominated, and withdrew prior to the election.

(9) Judicial Temperament:

The Commission believes that Mr. Englebardt’s temperament would be excellent.

(10) Miscellaneous:

Mr. Englebardt is married to Helen Elizabeth Burris. He has three children.

Mr. Englebardt reported that he was a member of the following bar associations and professional associations:

(a) North Carolina Bar;

(b) South Carolina Bar;

(c) Greenville County Bar;

(d) SCDTAA (Executive Committee Member since 2000);

(e) North Carolina Bar Association; and

(f) Upstate Mediation Network (Vice President 1999-2001).

Mr. Englebardt provided that he is a member of the following civic, charitable, educational, social, or fraternal organizations:

(a) Temple of Israel Board of Directors (2nd VP 2005-2007);

(b) Greenville Little League (Coach);

(c) PTAs of Stone Academy, League, Academy and Greenville High School;

(d) Greenville High All-Star Booster Club;

(e) Educational Foundation of the University of North Carolina (Upcountry Chapter Development Committee); and

(f) UNC and UNC School of Law Alumni Association;

(g) Best Lawyer’s in America (included from 2007 to the present);

(h) Board of Windsor Hope Foundation (2009).

Mr. Englebardt further reported:

When I ran for a Circuit Court seat in 2003, I wrote about watching my parents work as volunteers as drug counselors while I was a child and how their experiences affected my views on equal justice under the law. While I still have those feelings, obviously a great deal has happened in my life since that time.

In 2005 my wife, sons and I made the decision to add the 13 year-old daughter of a family friend who had passed away to our family. This child had been adopted by her grandmother (the family friend who died) at a young age after her birth parents lost their parental rights. This forced me to quickly learn to have a great deal of patience and to be firm with my judgments in dealing with not only the normal issues of a larger family but also with raising a teenager (now two teenagers).

Additionally, obviously there are some special issues that arise in raising someone who has been through what my daughter has been through. Not only did her birth parents lose custody of her and both eventually end up in prison, but also she had to deal with losing the only parent she ever really knew to cancer. As a result I think I've had to develop a sensitivity and at the same time a toughness that I'm not sure I had previously.

Moreover, I've been exposed to a different side of our legal system as I've watched her birth parents work in and out of the criminal justice and prison systems. While I've only been an interested observer as to these machinations, I've found the actions of the solicitor's office, the appointed defense counsel, the parole officers, and even the sentencing judges to be quite educational, especially since that area of the law is the one I've had the least exposure to in my career.

As a result of all of this, I believe I am better suited to sit on the circuit court bench than I was at the time of my first campaign. I also believe that the patience and friendships I’ve made during my previous runs for a seat on the Circuit Judge bench will serve me well if elected.

**The Upstate Citizens Advisory Committee found Mr. Englebardt “Well-Qualified” for each of the nine evaluative criteria: constitutional qualifications, ethical fitness, professional and academic ability, character, reputation, physical health, mental stability, experience, and judicial temperament. The committee states they “continue to find nothing but positive comments and reports regarding his qualifiecations for this position.”**

(11) Commission Members’ Comments:

The Commission commented that Mr. Englebardt has diverse legal experience as a trial practitioner, which would serve him well on the Circuit Court bench. They also noted his confidence at the Public Hearing, which would assist him as a jurist.

(12) Conclusion:

The Commission found Mr. Englebardt qualified, but not nominated, to serve as a Circuit Court judge.

**Allen Oliver Fretwell**

**Circuit Court, At-Large, Seat 8**

**Commission’s Findings: QUALIFIED, BUT NOT NOMINATED**

(1) Constitutional Qualifications:

Based on the Commission’s investigation, Mr. Fretwell meets the qualifications prescribed by law for judicial service as a Circuit Court judge.

Mr. Fretwell was born in 1974. He is 35 years old and a resident of Greenville, South Carolina. Mr. Fretwell provided in his application that he has been a resident of South Carolina for at least the immediate past five years and has been a licensed attorney in South Carolina since 1999.

(2) Ethical Fitness:

The Commission’s investigation did not reveal any evidence of unethical conduct by Mr. Fretwell.

Mr. Fretwell demonstrated an understanding of the Canons of Judicial Conduct and other ethical considerations important to judges, particularly in

the areas of ex parte communications, acceptance of gifts and ordinary hospitality, and recusal.

Mr. Fretwell reported that he has made $21.83 in campaign expenditures for stationery, research fee, ink, copies, and mailing.

Mr. Fretwell testified he has not:

(a) sought or received the pledge of any legislator prior to screening;

(b) sought or been offered a conditional pledge of support by a legislator;

(c) asked third persons to contact members of the General Assembly prior to screening.

Mr. Fretwell testified that he is aware of the Commission’s 48-hour rule regarding the formal and informal release of the Screening Report.

(3) Professional and Academic Ability:

The Commission found Mr. Fretwell to be intelligent and knowledgeable. His performance on the Commission’s practice and procedure questions met expectations.

Mr. Fretwell described his past continuing legal or judicial education during the past five years as follows:

Conference/CLE Name Date

(a) Polishing Trial: Beginning to End 5/3/09;

(b) Death Penalty Update 8/21-22/08;

(c) Technology in Prosecution 5/11/08;

(d) 2007 Annual Conference 9/23/07;

(e) 7th Annual Meeting 5/13/07;

(f) 2006 Annual S.C. Solicitors’ 9/24/06;

(g) Cross Examination 8/28/06;

(h) 13th Circuit Solicitor’s Office 5/06/06;

(i) Avoiding Errors in Closing 9/27/05;

(j) Ethics & P.R. Training Tracks 9/26/05;

(k) Prosecution of Ted Bundy 9/25/05;

(l) 13th Circuit Solicitor’s Office 5/08/05;

(m) Revised Lawyer’s Oath CLE 9/27/04;

(n) 2004 Annual Solicitor’s 9/26/04.

Mr. Fretwell reported that he has taught the following law-related courses:

(a) Guest Speaker, Bob Jones University Criminal Justice Class [3/7/08]

Topic: Answering Pre-submitted Questions about Criminal Prosecution

(b) CLE Speaker, Thirteenth Judicial Circuit Conference

Topic: Applicability of the Fifth and Sixth Amendments Right to Counsel

(c) Guest Speaker, Bob Jones University Criminal Justice Association

Topic: A Prosecutor’s Role

(d) Guest Speaker, Bob Jones University Criminal Justice Camp

Topic: The Courts

(e) Judge, *We The People: Project Citizen ,* (7/14/06)

(f) Attorney Coach, Bob Jones Academy Mock Trial Team (2000 – Present)

(g) Judge, Greenville County Youth Court

(h) Presiding Judge, American Mock Trial Association Regional Tournament

(i) Scoring Judge, American Mock Trial Association Regional Tournament

(j) Scoring Judge, National High School Mock Trial Competition (2005)

(k) Attorney Coach, Bob Jones University Mock Trial Team (2004–05)

Mr. Fretwell reported that he has published the following:

“Growing up With Grandparents” *Today’s Christian Senior,* (Spring 2007) \*Article title may reflect editorial alteration

(4) Character:

The Commission’s investigation of Mr. Fretwell did not reveal evidence of any founded grievances or criminal allegations made against him. The Commission’s investigation of Mr. Fretwell did not indicate any evidence of a troubled financial status. Mr. Fretwell has handled his financial affairs responsibly.

The Commission also noted that Mr. Fretwell was punctual and attentive in his dealings with the Commission, and the Commission’s investigation did not reveal any problems with his diligence and industry.

(5) Reputation:

Mr. Fretwell reported “as a public sector attorney, I have neither been listed in nor rated my Martindale-Hubbell to the best of my knowledge.”

(6) Physical Health:

Mr. Fretwell appears to be physically capable of performing the duties of the office he seeks.

(7) Mental Stability:

Mr. Fretwell appears to be mentally capable of performing the duties of the office he seeks.

(8) Experience:

Mr. Fretwell was admitted to the South Carolina Bar in 1999.

He gave the following account of his legal experience since graduation from law school:

Assistant Solicitor, Thirteenth Judicial Circuit, 08/99 to Present.

Mr. Fretwell further reported:

Although I am assigned to the Violent Crimes Unit, drug cases have comprised the majority of my prosecutorial workload over the past five years. Common issues involved in drug cases include: (1) evaluating the credibility of undercover informants; (2) identifying police conduct implicating the Fourth Amendment right against unreasonable searches & seizures; (3) determining the propriety of police-citizen encounters and interrogation of suspects within the Fifth Amendment framework; (4) verifying proper chain of custody for all fungible items and (5) responding to these and other suppression motions by oral argument.

I am also responsible for handling most of the arson cases in Greenville County. Common issues in arson cases include: (1) evaluating how law enforcement and arson investigators determine a fire’s cause and origin; (2) reviewing the thoroughness of the investigation to rule out accidental and natural causes; and (3) learning the scientific process utilized by analysts to determine the presence of ignitable liquids and fuel loads in preparation for presenting this evidence at trial.

As the liaison for law enforcement “cold case” units, I evaluate the sufficiency of evidence obtained by cold case investigators and provide an alternate perspective for pursuing leads and uncovering additional evidence. In 2006, I successfully prosecuted a defendant in a double homicide that had been “cold” for over four years prior to arrest and have served as lead and co-counsel in other murder cases. I have also assisted in a recent capital prosecution by conducting the preliminary hearing that resulted in the case being bound over for grand jury action.

Additionally, I have been involved in the mock trial program in South Carolina for eight years. The cases considered by the mock trial programs are evenly divided between civil and criminal subject matter and require an understanding of the distinction between civil and criminal cases such as burdens of proof and legal presumptions. I have served as the attorney coach for the Bob Jones Academy team who, during my tenure, twice won the State Championship and, in 2004, won the National Championship. I have also served as an attorney coach at the middle school and collegiate levels. I have served as a judge, both presiding and scoring, on the high school and collegiate level, and have most recently served as a presiding judge in multiple rounds at the American Mock Trial Association’s District Competition hosted by Furman University. I served as a judge for the National High School Mock Trial Championship in Charlotte, North Carolina, in 2005.

I participated in the creation of Greenville County’s school-based Youth Court Program and have served as a judge in this program many times. I have served as a judge for the South Carolina Bar’s “Project Citizen” program hosted by Clemson University and was, for a number of years, a judge in competitions presented by the National Forensic League.

Mr. Fretwell reported the frequency of his court appearances during the past five years as follows:

(a) federal: None;

(b) state: In court 2-3 weeks each month for pleas, trials or motions.

Mr. Fretwell reported the percentage of his practice involving civil, criminal, and domestic matters during the past five years as follows:

(a) civil: 0%;

(b) criminal: 100%;

(c) domestic: 0%.

Mr. Fretwell reported the percentage of his practice in trial court during the past five years as follows:

(a) jury: 0.1%;

(b) non-jury: 99.9%.

He further noted “I carry 275 to 375 warrants on my docket at any given time, dispose of 500 to 600 warrants a year and try 2 to 5 cases a year. That doesn't even register as a percentage point.”

Mr. Fretwell provided that he served as: “Primarily sole or chief counsel; associate counsel as a mentor or assisting another prosecutor in a complicated murder case.”

The following is Mr. Fretwell’s account of his five most significant litigated matters:

(a) State v. Carla Taylor, 260 S.C. 18, 598 S.E.2d 735 (Ct. App. 2004)—Overruled State v. Chisolm, 355 S.C. 175, 584 S.E.2d 401 (Ct. App. 2003), and established the current test for proving chain-of-custody for drug cases in South Carolina.

(b) State v. Jomer Hill, Op. No. 4507 (S.C. S. Ct. filed February 24, 2009) (Shearouse Adv. Sh. No. 10 at 67)—This case involved one of the first cold case arrests since the Greenville Police Department started its cold case unit. The defendant was arrested in November 30, 2004 (four years after his crime), and was convicted of double-murder at trial in May of 2006.

(c) State v. Gustavo Alvarado, AP 2005-UP-120 (S.C. Ct. App. 2005)—Defendant was convicted of Trafficking in Marijuana and sentenced to 18 years. Defendant appealed on the basis that the stop was pretextual and without probable cause. The Court of Appeals disagreed and the conviction was affirmed. A significant aspect of this case was that the passenger, Gallegos, testified that the drugs were his and the defendant, Alvarado, didn’t know anything about them. The case on appeal focused on the element of the defendant’s ability to exercise dominion and control over the drugs or over the premises upon which the drugs were found.

(d) State v. Jermaine Hawkins—Defendant was convicted *in absencia* of two counts each of Armed Robbery and Assault and Battery of a High and Aggravated Nature. This case is significant to me because of the profound effect these crimes had on the victims and that the identification of the defendant was strong enough to convict the defendant in his absence. The defendant petitioned for post-conviction relief (PCR) and his application was granted since the trial judge did not specifically charge the jury panel at the conclusion of the trial that the defendant’s absence should not be held against him. Following the granting of the defendant’s application for PCR, this case was resolved by way of a guilty plea.

(e) State v. Jeffrey Motts—Handled the preliminary hearing where this capital-murder case was bound over for grand jury action. The defendant was subsequently convicted and sentenced to death.

Mr. Fretwell reported that he has not personally handled any civil or criminal appeals.

Mr. Fretwell further reported the following regarding unsuccessful candidacies:

I ran as a candidate for the Circuit Court, At-Large Seat 13 in 2007-08 and was found qualified and nominated by the South Carolina Judicial Merit Selection Commission (JMSC). Once I learned that a candidate in that race had secured enough pledges to be elected, I immediately withdrew from the race.

In September of 2008, I again filed as a candidate for the Circuit Court, At-Large Seat 1. I was found qualified, but not nominated, by the JMSC.

In April of 2009, I filed as a candidate for residential Circuit Court Seat 3 in Greenville. The JMSC again found me qualified and nominated for the Circuit Court, but I withdrew from that race when I realized that, although I had a growing base of support, Judge Robin Stilwell had secured enough pledges to be elected.

(9) Judicial Temperament:

The Commission believes that Mr. Fretwell’s temperament would be excellent.

(10) Miscellaneous:

Mr. Fretwell is married to April Elaine Fretwell. He does not have any children.

Mr. Fretwell reported that he was a member of the following bar associations and professional associations:

South Carolina Bar;

Member, S.C. BAR Nominating Committee 2007 - Present;

Member, House of Delegates 2002-03; 2006 - Present;

Member, Law Related Education Committee 2004 – Present.

Mr. Fretwell provided that he was a member of the following civic, charitable, educational, social, or fraternal organizations:

(a) Colonel Elias Earle Historic District Association

President, 2008 – Present

Vice President, 2008

Neighborhood Liaison to the City of Greenville, 2008

Member, 2007 – Present;

(b) \*Roper Mountain Science Center Association

Member, 2001- summer 2009

President, 2007-08;

(c) Center for Developmental Services Children’s Carnival

Volunteer, 2004-07;

(d) Hampton Park Baptist Church

Member, 1986 – Present.

\*The RMSCA is a non-profit, eleemosynary “friends” group that supports the Roper Mountain Science Center (RMSC) through fundraising, volunteer recruitment and community involvement. The RMSC is a facility dedicated to the education of school-aged children and young people in the sciences and is owned and operated by the School District of Greenville County.

Mr. Fretwell further reported:

I understand the distinction between the role of a judge and the role of an advocate. As a prosecutor, I advocate on behalf of the State. As a judge, I would have no advocacy role whatsoever. A judge has “no friends to reward nor enemies to punish.” I would strive to treat every litigant and attorney equally and with the respect with which I would wish to be treated.

As a Christian, I have adopted an ethical code for my life that includes many of the principles reflected in the Rules of Professional Conduct and the Code of Judicial Conduct. One of these principles is to treat others as I would like to be treated. My courtroom experience has taught me the importance of a level playing field where rules are consistently and fairly applied. My primary goal as a circuit judge would be to fairly, impartially and consistently apply the law. The prospect of studying new areas of the law is exciting to me, as I have always enjoyed learning. I realize, however, that the academic aspect of the judicial process will not be my only concern. I want to perform my duties in an ethical manner that honors our system of justice.

My siblings and I were raised by my grandparents after my mother died of liver cancer. As educators, my grandparents taught us the value of hard work and a good education. They worked and sacrificed to provide us with the highest quality of life. My grandfather taught me to do my best, even in the little things, and to finish the job. He put our needs ahead of his own and was kind and helpful to everyone he met. Living and working in Greenville, I encounter his former students who remember him fondly and tell me how he profoundly and positively influenced their lives. I want to influence people as a circuit judge in the same positive and caring way that my grandfather did throughout his life.

As a trial attorney, I have observed many different lawyers, jurors and judges. I have waited for court to start, and I have had judges wait for my witnesses to appear. I have talked with witnesses about their fear of the courtroom and heard fellow attorneys concerned about the “mood” of the judge that day. Some judges have displayed extraordinary discernment and temperament in their roles, and others have failed to do so. Judges greatly influence the public perception of our justice system. Although few remember the lawyers involved in a particular case, most people remember the judge. I want to be the kind of judge who is the same both on and off the bench and who neither forgets the responsibilities nor violates the public trust of judicial office.

**The Upstate Citizen’s Committee on Judicial Qualification found Mr. Fretwell to be “Well-Qualified” in all areas but one. Under “experience,” the committee reported that Mr. Fretwell is “Qualified.” In the comment, they stated, “Mr. Fretwell’s lack of civil experience is our only concern; however, that does not prevent him from being qualified as a candidate for this position.”**

(11) Commission Members’ Comments:

The Commission commented that Mr. Fretwell is known as a fair and even-tempered prosecutor with the Thirteenth Judicial Circuit Solicitor’s Office. They noted that he is regarded as a man of integrity and known for his contributions to the state Bar through his service on several key committees.

(12) Conclusion:

The Commission found Mr. Fretwell qualified, but not nominated, to serve as a Circuit Court judge.

**William Patrick Frick**

**Circuit Court, At-Large, Seat 8**

**Commission’s Findings: QUALIFIED, BUT NOT NOMINATED**

(1) Constitutional Qualifications:

Based on the Commission’s investigation, Mr. Frick meets the qualifications prescribed by law for judicial service as a Circuit Court judge.

Mr. Frick was born in 1975. He is 34-years old and a resident of Winnsboro, South Carolina. Mr. Frick provided in his application that he has been a resident of South Carolina for at least the immediate past five years and has been a licensed attorney in South Carolina since 2001.

(2) Ethical Fitness:

The Commission’s investigation did not reveal any evidence of unethical conduct by Mr. Frick.

Mr. Frick demonstrated an understanding of the Canons of Judicial Conduct and other ethical considerations important to judges, particularly in the areas of ex parte communications, acceptance of gifts and ordinary hospitality, and recusal.

Mr. Frick reported that he has not made any campaign expenditures.

Mr. Frick testified he has not:

(a) sought or received the pledge of any legislator prior to screening;

(b) sought or been offered a conditional pledge of support by a legislator;

(c) asked third persons to contact members of the General Assembly prior to screening.

Mr. Frick testified that he is aware of the Commission’s 48-hour rule regarding the formal and informal release of the Screening Report.

(3) Professional and Academic Ability:

The Commission found Mr. Frick to be intelligent and knowledgeable. His performance on the Commission’s practice and procedure questions met expectations.

Mr. Frick described his past continuing legal or judicial education during the past five years as follows:

Conference/CLE Name Date

(a) S.C. Association for Justice Annual Conference 8/06/09;

(b) S.C. Trial Lawyers Annual Conference 8/07/08;

(c) S.C. Public Defender Assoc. Annual Conference 9/29/08;

(d) S.C. Trial Lawyers Annual Conference 8/05/07;

(e) S.C. Public Defender Assoc. Annual Conference 9/28/07;

(f) ABA/YLD Fall Conference 10/20/06;

(g) Jessie’s Law CLE 6/30/06;

(h) Prosecuting Homicide Case 5/07/06;

(i) S.C. Solicitor’s Assoc. Annual Conference 9/25/05;

(j) S.C. Methwatch Program 3/11/05;

(k) S.C. Solicitor’s Assoc. Annual Conference 9/26/04;

(l) Revised Lawyer’s Oath 8/20/04.

Mr. Frick reported that he has not taught or lectured at any bar association conferences, educational institutions, or continuing legal or judicial education programs.

He further stated:

“In the past, I have spoken to school children, community groups, and law enforcement about various legal issues.“

Mr. Frick reported that he has not published any books or articles.

(4) Character:

The Commission’s investigation of Mr. Frick did not reveal evidence of any founded grievances or criminal allegations made against him. The Commission’s investigation of Mr. Frick did not indicate any evidence of a troubled financial status. Mr. Frick has handled his financial affairs responsibly.

The Commission also noted that Mr. Frick was punctual and attentive in his dealings with the Commission, and the Commission’s investigation did not reveal any problems with his diligence and industry.

(5) Reputation:

Mr. Frick reported that he is not rated by Martindale-Hubbell.

Mr. Frick reported the following regarding public offices:

“I announced I would run as a candidate for S.C. House of Representatives Seat #41 in the 2008 election, however, I ultimately did not file to run.”

(6) Physical Health:

Mr. Frick appears to be physically capable of performing the duties of the office he seeks.

(7) Mental Stability:

Mr. Frick appears to be mentally capable of performing the duties of the office he seeks.

(8) Experience:

Mr. Frick was admitted to the South Carolina Bar in 2001.

He gave the following account of his legal experience since graduation from law school:

(a) 2001-02 Aiken County Public Defender

Assistant Public Defender;

(b) 2002-03 4th Circuit Solicitor’s Office

Assistant Solicitor-Gun Crime Prosecutor & Juvenile Prosecutor for Darlington County;

(c) 2003-05 South Carolina Office of the Attorney General

Assistant Attorney General- General prosecution & animal fighting prosecutions;

(d) 2005-06 6th Circuit Solicitor’s Office

Assistant Solicitor- Violent Crimes Prosecutor & Chief Prosecutor for Fairfield County;

(e) 2006-09 Law Offices of Koon & Cook PA

Associate & Winnsboro Office Manager

General practice in criminal law, domestic law, personal injury, worker’s compensation, and social security disability;

(f) 2006-09 Lancaster County Public Defender

Assistant Public Defender (part time contract attorney);

(g) 2009-Present 6th Circuit Public Defender

Assistant Public Defender & Chief Public Defender for Fairfield County.

Mr. Frick reported the frequency of his court appearances during the past five years as follows:

(a) Federal: at least 5 times in district court and several times in social security disability hearings while in private practice;

(b) State: at least weekly.

Mr. Frick further reported:

“Serving as a prosecutor in two judicial circuits, an Assistant Attorney General handling matters throughout the state, a public defender in two judicial circuits and a general practitioner attorney with a focus on criminal law, I have handled almost all criminal offenses from traffic tickets to murder. In my private practice I dealt with a wide variety of issues in personal injury from minor incidents to severely debilitating injuries, worker’s compensation, limited work in contract disputes and researched areas of employment law. While my experience is clearly skewed toward criminal law, I feel that my work in civil matters is broad enough to ensure my competence with any civil matters before the bench.”

Mr. Frick reported the percentage of his practice involving civil, criminal, and domestic matters during the past five years as follows:

(a) Civil: 20%;

(b) Criminal: 55%;

(c) Domestic: 25%.

“These percentages reflect my work while in private practice. While working as a prosecutor or public defender, my practice was 100% criminal.”

Mr. Frick reported the percentage of his practice in trial court during the past five years as follows:

(a) Jury: 90%;

(b) Non-jury: 10%.

Mr. Frick provided that he most often served as sole counsel.

The following is Mr. Frick’s account of his five most significant litigated matters:

(a) The State v. David Ray Tant- I served as lead counsel for the S.C. Attorney General’s Office in this matter in Charleston County in which the defendant was charged with some 40 counts of animal fighting. This was the largest animal fighting case in South Carolina history and received extensive national media attention, as the defendant was alleged to be one of the top breeders of fighting dogs in the country. Due to the media attention, the venue of the trial was moved to Greenwood County. The defendant pled guilty at the close of the State’s case and received a sentence totaling 40 years in the South Carolina Department of Corrections, the largest sentence for animal fighting in South Carolina and one of the largest in the United States.

(b) The State v. Bobby Ray Hill- I served as sole counsel for the 6th Circuit Solicitor’s Office in this case in Fairfield County in which the defendant was charged with a double homicide. The defendant confessed shortly after his arrest, but due to a history of serious mental health issues pled Guilty But Mentally Ill (GBMI) to the charge of Murder. GBMI requires a showing of certain circumstances at a special hearing to determine the applicability of this type of plea. The defendant appealed his plea, but the S.C. Court of Appeals declared the appeal meritless and upheld the conviction in an unpublished opinion. 2008-UP-453.

(c) The State v. Jerry McGriff- I served as sole counsel and represented the defendant charged with murder in Lancaster County. While there was little forensic evidence, witnesses stated that the defendant and another person, who was not on trial, were involved in an argument with the victim, yet there were no eye witnesses to the fatal shooting. The State proceeded and ultimately prevailed on accomplice liability theory stating that while no one could determine who was the actual shooter and the defendant did not intend to kill the victim, the defendant arrived at the victim’s location to start a fight and the death of the victim was an expected result of those actions.

(d) The State v. Randolph Frazier- I represented this defendant as sole counsel in three separate trials in Lancaster County for Burglary First Degree. Each trial had unique issues regarding eye-witness identification and dog tracking evidence. Dog tracking evidence has very little case law history in South Carolina and I was required to request the court to apply legal precedent from other jurisdictions about search and seizure issues regarding the taking of sent from the defendant and a jury charge regarding the use of dog tracking evidence. While my client was acquitted at the first trial and the jury could not reach a verdict in the second trial, the State ultimately succeeded in convincing a jury of his guilt in the third trial.

(e) The State v. Larry William Smith- I served as sole counsel for the S.C. Attorney General’s Office in this case in Darlington County in which the defendant was charged with Criminal Sexual Conduct with a Minor. The defendant was alleged to have forced the 12 year old victim into his house where he sexually assaulted the victim. The defendant maintained that the victim wanted to have sex with him, but he refused to do so and the victim made up this story as a result. As these cases are always quite difficult to prosecute, the State was fortunate to have DNA evidence, however the results stated that the likelihood of finding a person with similar DNA was 1 in 1200, whereas, the typical results in a successful prosecution put this likelihood to be 1 in several quadrillion. Despite these difficulties the defendant was convicted of the charge.

Mr. Frick reported that he has not personally handled any civil or criminal appeals.

(9) Judicial Temperament:

The Commission believes that Mr. Frick’s temperament would be excellent.

(10) Miscellaneous:

Mr. Frick is married to Ruxandra Elena Tudor. He has one child.

Mr. Frick reported that he was a member of the following bar associations and professional associations:

(a) S.C. Bar- 6th Circuit Representative-Young Lawyers Division (2006-present);

(b) Fairfield County Bar- Secretary (2006-present);

(c) Lancaster County Bar;

(d) S.C. Association for Justice.

Mr. Frick provided that he was a member of the following civic, charitable, educational, social, or fraternal organizations:

(a) Winnsboro Rotary Club- Board of Directors, President Elect;

(b) Fairfield Behavioral Health Services- Vice Chair - Board of Directors;

(c) First Steps of Fairfield County-Chairman - Board of Directors

(d) Pine Tree Players- Board of Directors.

Mr. Frick further reported:

In my career, I have thus far handled legal matters in some 30 of the 46 counties of our State. In each county, I have heard someone say that some particular issue “only happens in…” I can expressly say that in my experience that the judicial system essentially metes out justice in the same way, with the same type of cases, and the same circumstances throughout South Carolina.

With my experience I can most assuredly say that defendants are rather much the same throughout the state, law enforcement proceeds in much the same way throughout the state, cases are prosecuted and defended in rather much the same way, and all entities are suffering from a want of funding, whether perceived or real. However, I have found that, particularly in the world of prosecution and public defenders, information is not readily exchanged on how to deal with particular issues. I would like to work toward the facilitation of the exchange of ideas that would help in expediting the handling of cases in our legal system. I would particularly like to do this in the criminal justice system and would like to work toward seeing “best practices” in all facets of the justice system, criminal and civil, implemented for the betterment of the seeking of justice for all involved in our court systems be they civil litigants, victims of crime, or criminal defendants.

**The Piedmont Citizens Advisory Committee found Mr. Frick to be “Qualified” for each of the nine evaluative criteria: constitutional qualifications, ethical fitness, professional and academic ability, character, reputation, physical health, mental stability, experience, and judicial temperament. They also found Mr. Frick: “met the minimum requirements. However, the Committee believes Mr. Frick needs additional experience to be an effective Circuit Judge. The decision of the committee was unanimous.”**

(11) Commission Members’ Comments:

The Commission commented that Mr. Frick has a good reputation in his local community. They also noted his public service as an assistant solicitor, assistant attorney general, and work as a public defender.

(12) Conclusion:

The Commission found Mr. Frick qualified, but not nominated, to serve as a Circuit Court judge.

**Daniel Dewitt Hall**

**Circuit Court, At-Large, Seat 8**

**Commission’s Findings: QUALIFIED, BUT NOT NOMINATED**

(1) Constitutional Qualifications:

Based on the Commission’s investigation, Mr. Hall meets the qualifications prescribed by law for judicial service as a Circuit Court judge.

Mr. Hall was born in 1954. He is 55 years old and a resident of York, South Carolina. Mr. Hall provided in his application that he has been a resident of South Carolina for at least the immediate past five years and has been a licensed attorney in South Carolina since 1988. He was also admitted to the North Carolina Bar in 1988.

(2) Ethical Fitness:

The Commission’s investigation did not reveal any evidence of unethical conduct by Mr. Hall.

Mr. Hall demonstrated an understanding of the Canons of Judicial Conduct and other ethical considerations important to judges, particularly in the areas of ex parte communications, acceptance of gifts and ordinary hospitality, and recusal.

Mr. Hall reported that he has not made any campaign expenditures.

Mr. Hall testified he has not:

(a) sought or received the pledge of any legislator prior to screening;

(b) sought or been offered a conditional pledge of support by a legislator;

(c) asked third persons to contact members of the General Assembly prior to screening.

Mr. Hall testified that he is aware of the Commission’s 48-hour rule regarding the formal and informal release of the Screening Report.

(3) Professional and Academic Ability:

The Commission found Mr. Hall to be intelligent and knowledgeable. His performance on the Commission’s practice and procedure questions met expectations.

Mr. Hall described his past continuing legal or judicial education during the past five years as follows:

Conference/CLE Name Date

(a) 2008 Annual Solicitor’s Association Conference Sept. 28-30, 2008;

(b) Evidence for Prosecutors – Tucson, Arizona Nov. 4-8, 2007;

(c) 2007 Annual Solicitor’s Association Conference Sept. 23-26, 2007;

(d) 2006 Annual Solicitor’s Association Conference Sept. 24-27, 2006;

(e) 2005 Annual Solicitor’s Association Conference Sept. 25-28, 2005;

(f) 2004 Annual Solicitor’s Association Conference Sept. 26-29, 2004;

(g) Focus on Sexual Assault Victims –

National Advocacy Center August 2-6, 2004.

Mr. Hall reported that he has not taught or lectured at any bar association conferences, educational institutions, or continuing legal or judicial education programs.

Mr. Hall reported that he has published the following: Clergy Confidentiality: a Time to Speak and an Time to Be Silent, by Lynn Buzzard and Dan Hall, 1988 Christian Management Association.

(4) Character:

The Commission’s investigation of Mr. Hall did not reveal evidence of any founded grievances or serious criminal allegations made against him. The Commission’s investigation of Mr. Hall did not indicate any evidence of a troubled financial status. Mr. Hall has handled his financial affairs responsibly.

The Commission also noted that Mr. Hall was punctual and attentive in his dealings with the Commission, and the Commission’s investigation did not reveal any problems with his diligence and industry.

(5) Reputation:

Mr. Hall reported that he is not rated by Martindale-Hubbell.

(6) Physical Health:

Mr. Hall appears to be physically capable of performing the duties of the office he seeks.

(7) Mental Stability:

Mr. Hall appears to be mentally capable of performing the duties of the office he seeks.

(8) Experience:

Mr. Hall was admitted to the South Carolina Bar in 1988.

He gave the following account of his legal experience since graduation from law school:

(a) Sixteenth Judicial Circuit Solicitor’s Office Assistant Solicitor, 1988-90;

(b) Sole Practitioner 1991-99

General practice with focus on personal injury, worker’s compensation and criminal defense;

(c) Sixteenth Judicial Circuit Solicitor’s Office Assistant Solicitor, 1999-present.

Mr. Hall further reported:

“I have been an Assistant Solicitor for the past ten years. I currently prosecute class A, B, or C felonies. I am employed as an assistant solicitor. I have no experience in civil matters in the past five years. I was in private practice from 1991 – 1999 and had a limited experience in the court of common pleas. My practice included criminal defense, personal injury, probate and some limited litigation in common pleas. I believe that I have the intellectual ability to quickly develop the necessary skills to preside in common pleas.”

Mr. Hall reported the frequency of his court appearances during the past five years as follows:

(a) Federal: 0%;

(b) State: 100%.

Mr. Hall reported the percentage of his practice involving civil, criminal, and domestic matters during the past five years as follows:

(a) Civil: 0%;

(b) Criminal: 100%;

(c) Domestic: 0%.

Mr. Hall reported the percentage of his practice in trial court during the past five years as follows:

(a) Jury: 10%;

(b) Non-jury: 90%.

Mr. Hall provided that he most often served as sole counsel.

The following is Mr. Hall’s account of his five most significant litigated matters:

(a) State v. Russell Holley 2002 GS 46 0698

Murder trial in which boyfriend stabbed girlfriend to death in a range of domestic violence. Defendant was sentenced to life without parole.

(b) State v. Aaron Williams 2003 GS 46 2745

Burglary First Degree trial in which a seventy year old widow’s home was invaded while she was alone. Victim was physically attacked. Defendant was sentenced to a thirty year prison sentence.

(c) State v. Sakima McCullough 2006 GS 46 0110

Burglary First Degree, Armed Robbery and Kidnapping trial in which the defendant was involved in a home invasion, robbery and assault on the victim. Defendant was sentenced to a thirty year prison sentence.

(d) State v. Edward Miller 2003 GS 46 0557

Defendant was charged with murder. The case was trued billed by the grand jury. In preparing for trial and investigating this case evidence was discovered absolving this defendant of the murder. The defendant had been wrongfully charged. I dismissed this case.

State v. Penny Sue Price 1994 GS 46 2784

I defended at trial an indigent, mentally handicapped defendant charged with threatening public housing officials. The defendant was found not guilty at trial.”

Mr. Hall reported that he has not personally handled civil or criminal appeals.

Mr. Hall further reported the following regarding unsuccessful candidacies:

(a) Republican Primary candidate for Solicitor, Sixteenth Judicial Circuit, June 1996.

(b) Candidate for Judge, Sixteenth Judicial Circuit Family Court, 1998, withdrew.

(c) Candidate for Judge, Circuit Court At-Large, Seat 9, March 2006; Qualified but not nominated.

(d) Candidate for Judge, Circuit Court At-Large, Seat 6, January 2009; Qualified and nominated, withdrew prior to February election.

Mr. Hall further reported:

“I served as Municipal Judge – City of York, South Carolina – appointed by York City Council. January, 1993 – May, 1999. Signed criminal warrants, set bonds and held preliminary hearings for General Sessions criminal matters occurring in the city limits. Presided over plea court, bench trials and jury trials for criminal or traffic charges in the City of York in which the statutory penalty was no greater than 30 days in jail or the fine was not more than $200.”

(9) Judicial Temperament:

The Commission believes that Mr. Hall’s temperament would be excellent.

(10) Miscellaneous:

Mr. Hall is married to Cathleen McCreight Hall. He has four children.

Mr. Hall reported that he was a member of the following bar associations and professional associations:

(a) York County Bar, Treasurer, 1992;

(b) South Carolina Bar;

(c) North Carolina Bar.

Mr. Hall provided that he was a member of the following civic, charitable, educational, social, or fraternal organizations:

(a) Filbert Presbyterian Church, Clerk of Session;

(b) York County Beekeepers Association;

(c) Palmetto Pregnancy Center, Board Member;

(d) National Cutting Horse Association.

Mr. Hall also provided:

Having grown up in a rural environment learning farm work and land surveying from my father, I continued to do farm work, textile mill work and land surveying through high school and college. Prior to attending law school, I managed a cattle operation, worked in a meat processing business and operated a local credit reporting and collection business. In these years, I married my wife of now thirty-one years and we had three small children. Having read and seen the need for attorneys with integrity to fill the ranks of our justice system, I then made the decision to attend law school. I began law school as a thirty year old father to three small children and my wife and I had our fourth child during the law school years. I took and passed the South Carolina and North Carolina bar exams in July 1988.

Since my time as a lawyer, my family has now grown to four married children, their spouses and five grandchildren. I have deeply enjoyed my work as a public servant as a private attorney, municipal judge and an assistant solicitor in the Sixteenth Judicial Circuit Solicitor’s office.

My life experiences give me a deep understanding and appreciation for people from all walks of life. I have been privileged to work with men and women from a broad variety of social and economic backgrounds. The courtrooms of this state belong to such people, and circuit court judges serve those as well the professionals that conduct the business of the courts. I believe I am prepared and have the ability to serve as a circuit court judge with both common sense and experienced knowledge of the law.

My commitment to justice and serving the common man has well suited me to be a circuit court judge. I would be honored to serve.

**The Piedmont Citizens Committee found Mr. Hall “Well-Qualified” for each evaluative criterion: constitutional qualifications, ethical fitness, professional and academic ability, character, reputation, physical health, mental stability, experience, and judicial temperament. They also found Mr. Hall “to possess high moral character and professional and academic ability. We believe his judicial temperament would be excellent. The Committee finds Mr. Daniel Hall very qualified for the position he is seeking. The decision of the Committee was unanimous.”**

(11) Commission Members’ Comments:

The Commission commented on Mr. Hall’s excellent demeanor and diverse criminal experience. They noted his strong work ethic, which would be an asset as a Circuit Court judge.

(12) Conclusion:

The Commission found Mr. Hall qualified, but not nominated, to serve as a Circuit Court judge.

**Samuel Richardson Hubbard, III**

**Circuit Court, At-Large, Seat 8**

**Commission’s Findings: QUALIFIED AND NOMINATED**

(1) Constitutional Qualifications:

Based on the Commission’s investigation, Mr. Hubbard meets the qualifications prescribed by law for judicial service as a Circuit Court judge.

Mr. Hubbard was born in 1965. He is 44 years old and a resident of Lexington, South Carolina. Mr. Hubbard provided in his application that he has been a resident of South Carolina for at least the immediate past five years and has been a licensed attorney in South Carolina since 1990.

(2) Ethical Fitness:

The Commission’s investigation did not reveal any evidence of unethical conduct by Mr. Hubbard.

Mr. Hubbard demonstrated an understanding of the Canons of Judicial Conduct and other ethical considerations important to judges, particularly in the areas of ex parte communications, acceptance of gifts and ordinary hospitality, and recusal.

Mr. Hubbard reported that he has not made any campaign expenditures.

Mr. Hubbard testified he has not:

(a) sought or received the pledge of any legislator prior to screening;

(b) sought or been offered a conditional pledge of support by a legislator;

(c) asked third persons to contact members of the General Assembly prior to screening.

Mr. Hubbard testified that he is aware of the Commission’s 48-hour rule regarding the formal and informal release of the Screening Report.

(3) Professional and Academic Ability:

The Commission found Mr. Hubbard to be intelligent and knowledgeable. His performance on the Commission’s practice and procedure questions met expectations.

Mr. Hubbard described his past continuing legal or judicial education during the past five years as follows:

Conference/CLE Name Date

(a) 18th Annual Criminal Law Update 1/24/2003;

(b) 2003 Solicitor’s Association 9/28/2003;

(c) 2004 Annual S.C. Solicitor’s Conference 9/26/2004;

(d) Revised Lawyer’s Oath CLE 9/27/2004;

(e) 2005 Annual S.C. Solicitor’s Conference 9/25/2005;

(f) 21st Annual Criminal Law Update 1/27/2006;

(g) Jessie’s Law 6/30/2006;

(h) 2006 Annual S.C. Solicitor’s Conference 9/24/2006;

(i) Capital Litigation Seminar 5/16/2007;

(j) 2007 Annual S.C. Solicitor’s Conference 9/23/2007;

(k) 2008 S.C. Solicitor’s Association 9/28/08;

(l) Trial Advocacy: Case Analysis 11/24/2008.

Mr. Hubbard reported that he has taught the following law-related courses:

(a) I was a faculty member at the National Advocacy Center for the Trial Advocacy I course for new prosecutors from across the country, August 15-19, 2005.

(b) I was a faculty member at the National Advocacy Center for the Trial Advocacy I course for new prosecutors from across the country, January 14-18, 2008.

(c) I lectured on “Pre-Trial Practice in Capital Cases” to capital litigators at the Attorney General’s Capital Litigation Seminar, August 22, 2008.

(d) I lectured on “Cross-Examination” and on “Objections” at the South Carolina Commission on Prosecution Coordination’s Prosecution Bootcamp for new prosecutors, 2009.

(e) I lectured on “The Law Governing Expert Witnesses and Evidence” at the South Carolina Commission on Prosecution Coordination’s “Forensic Science Series for Prosecutors: Drugs, Firearms, Questioned Documents, and Trace Evidence”, May 29, 2009.

Mr. Hubbard reported that he has not published any books or articles.

(4) Character:

The Commission’s investigation of Mr. Hubbard did not reveal evidence of any founded grievances or criminal allegations made against him. The Commission’s investigation of Mr. Hubbard did not indicate any evidence of a troubled financial status. Mr. Hubbard has handled his financial affairs responsibly.

The Commission also noted that Mr. Hubbard was punctual and attentive in his dealings with the Commission, and the Commission’s investigation did not reveal any problems with his diligence and industry.

(5) Reputation:

Mr. Hubbard reported that he is not rated by Martindale-Hubbell.

(6) Physical Health:

Mr. Hubbard appears to be physically capable of performing the duties of the office he seeks.

(7) Mental Stability:

Mr. Hubbard appears to be mentally capable of performing the duties of the office he seeks.

(8) Experience:

Mr. Hubbard was admitted to the South Carolina Bar in 1990.

He gave the following account of his legal experience since graduation from law school:

(a) Judicial Law Clerk for the Honorable Hubert E. Long, (1990-91)

Although I began my clerkship with Judge Hubert Long in August of 1990, I actually sat with him in court as I studied for the bar exam. Judge Long relied on his clerks more than most judges, and he wanted to be sure that I was ready for the tremendous responsibility that would be entrusted to me when I officially began my clerkship. This was his practice with all of his clerks.

My duties were extensive. I was responsible for preparing all jury charges in both civil and criminal cases. My task was to meet with the attorneys from both sides prior to the close of the trial and attempt to construct jury charges that accurately conveyed the law and if possible left little room for objections. The judge rarely participated in this process. In fact, most of this work occurred after the judge had left for the day.

I also had an integral role in Common Pleas Non-Jury matters. Initially, my role was like that of his previous clerks. I was to review all cases taken under advisement and provide the judge with my opinion as to the appropriate ruling. During my time with the judge, he never questioned my advice. In time, my role changed. When presiding over a term of Common Pleas Non-Jury, which he typically conducted in chambers, Judge Long began deferring decisions to me in the presence of the attorneys.

In addition to these responsibilities, I reviewed all orders before presenting them to the judge, and occasionally drafted orders on his behalf. Finally, I sat with the judge on the bench during trials and other hearings, advising him on rulings, sentences, questions of law, and matters of evidence and procedure.

Judge Long was one of the last judges from a bygone era. Because of this fact, I acquired more experience than any current law clerk ever could, or perhaps ever should. Despite this, his advice was timeless. He taught me to be aware of the constraints on those practicing law, and to always remember that a judge must be impartial and fair. As his last law clerk, he also confided that when judging others, he was mindful that he too would someday be judged.

(b) Judicial Law Clerk for the Honorable William P. Keesley, (1991-94)

Judge William P. Keesley was elected to fill Judge Long’s unexpired term. I had the privilege to be his first law clerk, and I remained with him for three years.

My clerkship with Judge Keesley was of a more traditional nature. As a new judge, and being aware of my role with Judge Long, Judge Keesley was comfortable discussing the matters before him and seeking my advice. I routinely sat with him on the bench. I advised him on rulings, sentences, jury charges, questions of law, and matters of evidence and procedure.

In addition, I scheduled all motions and pre-trial hearings, and I kept track of matters taken under advisement. Throughout my clerkship with Judge Keesley, I had numerous opportunities to work with and assist other circuit judges when they held court in Lexington County.

Judge Keesley was, and continues to be, a model judge. He understands his job completely, never forgetting the impact his decisions will have on the lives of others. He is not only fair and impartial, he is humble as well. He works hard and is willing to volunteer his time for unscheduled hearings and motions. He is firm, but compassionate, a quality that is evident whether he is presiding over a term of court or a session of Drug Court. Through the years, I have considered Judge Keesley to be both a mentor and a friend.

(c) Assistant Solicitor, Eleventh Judicial Circuit (1994-97)

In January of 1994, I accepted a position with Solicitor Donald V. Myers’ office. As a judicial law clerk, I discovered my love for the courtroom. As a prosecutor, the courtroom is where most of my work is done. I was one of the few assistant solicitors in the office who had the opportunity to prosecute cases not only in Lexington County, but Edgefield, McCormick, and Saluda Counties as well.

I tried a variety of cases, such as DUI’s, drug cases, and even some violent crimes. I had the opportunity to work closely with the deputy solicitor, R. Knox McMahon. I had been with the office for only three months when he asked me to assist him in a murder trial.

As an assistant solicitor, I began to learn the art of trying cases and negotiating pleas. I was always, and have continued to be, impressed with the responsibility that is unique to a prosecutor. I am a minister of justice. My job is not to get convictions, but to see that justice is done. I quickly learned to embrace diversionary programs, such as Pre-Trial Intervention and Drug Court. I learned that doing the right thing might sometimes require dismissing charges, even when victims felt differently. Finally, I learned that a prosecutor must not be afraid to fight for justice in the courtroom.

(d) Senior Assistant Solicitor, Eleventh Judicial Circuit (1997-2002)

When Solicitor Myers promoted me to senior assistant solicitor, my responsibilities increased significantly. I worked primarily in Lexington, and my personal docket, which included a large number of violent and high-profile cases, was one of the largest in the office.

In addition, I assumed a number of supervisory duties. I was responsible for managing assistant solicitors, advising them in the evaluation and preparation of their cases, and assisting them with their trials. As a supervisor, I understood that I was responsible for the actions of those I supervised. I advised law enforcement officers on investigations, search warrants, and other legal issues. I assisted the deputy solicitor in monitoring the General Sessions docket, assigning cases to assistant solicitors, handling personnel issues, and conducting performance evaluations. I also assisted the Solicitor and deputy solicitor in the preparation of capital murder cases, and I occasionally assisted with the trials.

(e) Deputy Solicitor, Eleventh Judicial Circuit (2002-Present)

In 2002, I was promoted to deputy solicitor. I have numerous responsibilities. My personal docket consists of violent and high profile cases, including capital murder cases. I am also responsible for managing the entire General Sessions docket. Since 2004, I have worked with the Solicitor in the development and implementation of our Case Management System which has drastically reduced the backlog of pending cases. Prior to 2004, we had over 10,000 pending warrants in Lexington County. Today, we have approximately 5,200 pending warrants. In 2007, I formed the Violent Crime Task Force, selecting our office’s most experienced attorneys to exclusively prosecute violent cases. In 2008, the Task Force was largely responsible for a 22% reduction in our county jail’s daily inmate population.

In addition, I supervise the other prosecutors in the office, providing advice in case preparation and sometimes assist them at trial, and I advise law enforcement on investigations, warrants, and other legal issues. I supervise our Family Court attorneys and staff. I assign new cases, supervise court operations, and conduct performance evaluations. I serve as the office manager, handling all personnel issues. I also assist in the preparation of our office budget, and I present the budgets to county council.

I have taught courses in various state seminars, including courses involving the death penalty, and I have been invited to teach prosecutors from all over the country at the National Advocacy Center in Columbia. In 2007, I was awarded the Ernest F. Hollings Award for Excellence in State Prosecution (General Sessions Court), the highest award for a state prosecutor in South Carolina.

Mr. Hubbard further reported:

“I believe my experiences will serve me well should I have the honor of becoming a Circuit Court Judge. Although I have spent the last fifteen years as a prosecutor, I received a thorough education in the civil practice of law from a judicial perspective. As a judge, I would commit myself to learning those areas of law with which I am less familiar, and I would do so with the same drive and effort that I put forth when I am preparing a major trial. As a deputy solicitor, I have learned to make tough decisions and to react quickly to any given situation. This ability, together with my experience in the courtroom, and my commitment to doing what is both just and fair, will serve as a solid foundation if I am elected to the Circuit Court.”

Mr. Hubbard reported the frequency of his court appearances during the past five years as follows:

(a) federal: None;

(b) state: Weekly.

Mr. Hubbard reported the percentage of his practice involving civil, criminal, and domestic matters during the past five years as follows:

(a) civil: 0%;

(b) criminal: 100%;

(c) domestic: 0%.

Mr. Hubbard reported the percentage of his practice in trial court during the past five years as follows:

(a) jury: 15%;

(b) non-jury: 85%.

Mr. Hubbard provided that he most often served as chief counsel or sole counsel.

The following is Mr. Hubbard’s account of his five most significant litigated matters:

(a) The State v. Christopher Arnex Brown, 333 S.C. 185, 508 S.E.2d 38 (Ct. App.1998).

This case involved the 1995 armed robbery of Nevada Charlie’s Video Poker Club and its patrons in Lexington County. In addition to the defendant, several other individuals were charged for the robbery, including a married couple who frequented the club. Brown was the last defendant to be tried, and like his co-defendants, he was found guilty of armed robbery.

One of the critical issues in this case was the admissibility of one witnesses’ identification testimony. Sometime following Brown’s arrest, law enforcement compiled three separate photo line-ups, one of which included Brown. Although Brown admitted his involvement and picked out himself and two of his co-defendants in the line-ups, none of the victims or witnesses were able to positively identify Brown.

One victim, Jennifer Youngblood, provided a general description of one of the perpetrators, including a description of his height, weight, and that he wore a “great big” gold ring on his right hand. The description fairly matched Brown, and when he was arrested he was wearing a large gold ring on his right hand. When shown the line-up that included Brown, she failed to identify him as the man she described. However, Ms. Youngblood explained that she believed picture number three (Brown) was one of the robbers, but she did not want to “get an innocent man in trouble” if she were mistaken.

At trial, I presented Ms. Youngblood with the photo line-up. After an *in camera* hearing, the judge allowed me to introduce the line-up into evidence. The Court of Appeals found that although she had not selected Brown in the line-up, I had satisfied the requirements established in Neil v. Biggers, 93 S.Ct. 375 (1972), and that the judge had properly admitted Ms. Youngblood’s testimony.

Although there were other issues in this case as well, this case has often been cited on the issue of the admissibility of identification testimony. See State v. Brannon, 533 S.E.2d 345 (Ct.App.2000); State v. Tisdale, 527 S.E.2d 389 (Ct.App.2000); State v. Patterson, 522 S.E.2d 845 (Ct.App.); State v. Rice, 652 S.E2d 409 (Ct.App.2007).

1. State v. Robert Boswell, Indictment #2002-GS-32-3257 (Appeal Pending)

Robert Boswell was known by law enforcement and the press as the “Pillow Case Bandit”. For approximately 3 months during the summer of 2001, over twenty homes in various Lexington County neighborhoods were burglarized. A common fact in each case was the suspect would use one of the victim’s pillow cases to carry his stolen goods. Another common fact was the suspect’s pension for stealing women’s clothing and accessories. Despite the best efforts of law enforcement, the suspect was never caught in the act.

The case was broken when a computer sold at a local flea market proved to be the stolen property of one of the burglary victims. Law enforcement determined that the computer was found in an abandoned house in the woods of Calhoun County. When they located the house, officers found property from the Lexington burglaries and burglaries in Richland County. Officers hid in the woods and waited to see if the suspect would return to the stash house. During the early morning hours of August 11, 2001, Boswell drove up to the house with more stolen property. He was in the process of “pleasuring” himself when officers came out of the woods and arrested him. I tried Boswell for one incident and convicted him of Burglary 1st Degree on October 8, 2003. He received a life sentence.

This case was significant for several reasons. Due to the sexual undertones of the burglaries, law enforcement feared they were dealing with a potentially dangerous man. He seemed to break into homes with ease. Finally, the jurisdictional issue (he was arrested in Calhoun County) will be an issue on appeal. Despite the age of the case, the post-trial motions were never heard by the late Judge Marc H. Westbrook. The late Judge James Johnson heard and denied the motions in May of 2008, several months before his death.

(c) State v. Kevin Mercer, Op. No. 26582 (S.C. Sup.Ct. filed Jan. 12, 2009)

This was a death penalty case. On March 16, 2002, Sergeant First Class Tracy Davis, an Army recruiter at Fort Jackson, was shot to death outside his apartment in Lexington County. Sergeant First Class Clifton Magwood looked out the window of the second story apartment he shared with Davis and witnessed a heavyset man with a handgun confronting Davis as Davis stood next to his Lincoln Navigator. Magwood heard Davis tell the man, “All right. I’ll give it to you.” As Magwood ran downstairs to help his roommate, he heard a gunshot. When he got outside, he saw Davis’ Navigator leaving the apartment complex, and Davis lying on the ground with a gunshot to the back of his head.

On April 22, 2006, a Lexington County jury sentenced Mercer to death. As in most death penalty cases, this case had numerous issues raised on appeal. One of the more significant issues was Mercer’s motion for a new trial based on after discovered evidence. Mercer’s co-defendant was Marcus Thompson. Thompson was indicted for Accessory After the Fact of Murder and was awaiting the disposition of his case while Mercer’s sentence was on appeal. One of Thompson’s cellmates, Kevin Fuller, wrote Solicitor Myers several letters asking for help with his charges (Criminal Domestic Violence of a High and Aggravated Nature) and claiming that Thompson had admitted he had shot and killed Sergeant Davis, not Mercer. Solicitor Myers promptly forwarded these letters to Mercer’s attorneys.

The Supreme Court remanded Mercer’s case for an evidentiary hearing. After listening to the testimony from both the defense and the State, the trial court denied Mercer’s motion. The South Carolina Supreme Court affirmed Mercer’s conviction and sentence. In doing so, the Court reaffirmed the trial court’s gatekeeping role in post-trial after-discovered evidence motions and rejected Mercer’s attempt to use Fuller’s testimony for “residual doubt” as to guilt in the sentencing phase.

This case is significant to me for another reason as well. One week before jury selection was to commence, Solicitor Myer’s wife, Vance, died unexpectedly. On the night of her death, the Solicitor informed me that I was to assume the lead role in the case, and that he would not be available to assist. Fortunately, Solicitor Myers was able to participate in the penalty phase of the trial.

(d) State v. Ron O’Neil Finklea, Indictments #2004-GS-32-2259, 2260, 2261, 2263, & 2264 (Appeal Pending)

This was a death penalty case. During the early morning hours of August 2, 2003, Ron O’Neal Finklea and his brother-in-law, Theodore Davis, attempted to rob an ATM located in the lobby of Solectron, an electronics plant. Finklea was a former employee of the plant, and he and Davis had planned the robbery for weeks. One critical part of the plan was to kill the security guard and then burn his office where the security camera videos were stored. Finklea entered the security office next to the lobby and shot the security guard, Walter Sykes, two times. He then let Davis into the lobby. As Davis attempted to break into the ATM, Finklea took a gas can into the security room, doused Sykes with gasoline, and lit him on fire. The security cameras and video were not damaged. The entire incident was caught on both the ATM camera and the security cameras, including the grisly scene of Walter Sykes on fire running out of the security room with blood shooting from his neck.

This case is significant due to the horrific nature of the crime, and for what occurred after Finklea’s arrest. On August 6, 2003, Finklea and Davis were captured at Finklea’s parent’s house in Alabama. While in Alabama, law enforcement interviewed both Finklea and Davis. Davis gave a written confession to his involvement. Finklea claimed to have no memory of the incident. Once he was returned to Lexington County and placed in the jail, Finklea attempted to hang himself. At trial, the defense claimed he suffered brain damage from the attempted suicide which resulted in memory loss. The jury apparently did not accept the defense’s position and sentenced him to death on September 6, 2007.

(e) State v. Darrell Burgess, Indictments #2005-GS-32-4561 & 4563 (Appeal Pending)

This case involved the murders of David Slice and Kim Fauscette who were found shot to death in their residence in the Gaston area of Lexington County. This case is significant for two reasons. First, although this case qualified for the death penalty, the case was a difficult one to prove. The case hinged on the testimony of two individuals who were charged as accessories. Second, the case exemplifies the role of the prosecutor in balancing justice and mercy.

One of the co-defendants, James “Tony Red” Johnson, was present at the time of the murder smoking crack with the victims. Burgess arrived at the residence, but declined to smoke crack. Within minutes of his arrival, he fired 5 shots from his revolver, hitting Slice 3 times and Fauscette 2 times. Johnson fled and hid in the woods. While hiding, Johnson heard 2 more shots. Slice was shot point blank between the eyes and Fauscette on the top of her head. Burgess had to reload to make these shots. Johnson was charged with accessory after the fact because the next day he gave Burgess a ride to a car rental business.

The other co-defendant was Michael Wise, a convicted armed robber who spent time in prison while in the Marine Corps. He was charged as an accessory before and after the fact because he gave Burgess a ride to and from the murder scene, and he helped dispose of the revolver and Burgess’s bloody clothes. He provided a 12 page self-serving statement.

On the day of trial, we were prepared to try either Burgess or Wise. Wise would have been easier to try because of his statement, but Burgess would be difficult if not impossible to convict without Wise’s cooperation. Our primary witness would have been Johnson and the defense could easily suggest that he killed the victims. Fortunately, Wise pleaded guilty and his sentence was held in abeyance until he testified against Burgess.

With the testimony of Johnson and Wise, and with the use of phone records and cell tower reports, Burgess was convicted and received two life sentences. Wise was sentenced and immediately extradited to another state for additional violent crimes. Johnson was placed into Drug Court and his charges were dismissed upon his completion of the program approximately one year later. Johnson had been addicted to drugs since he returned from the Vietnam War. His wife and children only knew a man who lied and stole for drugs. By the time he graduated Drug Court, Johnson was sober, employed, and enjoyed the love of his family. He continues to come to Drug Court graduations and offers support to those still in the program.”

Mr. Hubbard reported that he has not personally handled any civil or criminal appeals.

(9) Judicial Temperament:

The Commission believes that Mr. Hubbard’s temperament would be excellent.

(10) Miscellaneous:

Mr. Hubbard is married to Ann Davidson Hubbard. He does not have any children.

Mr. Hubbard reported that he was a member of the following bar associations and professional associations:

(a) The South Carolina Bar;

(b) The Lexington County Bar.

Mr. Hubbard provided that he was a member of the following civic, charitable, educational, social, or fraternal organizations:

(a) The Anglican Church of the Epiphany, Vestry (1997 – Present);

(b) The Ernest F. Hollings Award for Excellence in State Prosecution, General Sessions (2007).

Mr. Hubbard further reported:

I strongly believe in alternatives to traditional prosecution. My wife, Ann Davidson Hubbard, is responsible for starting the first Drug Court in South Carolina in 1996. She has worked with Judge Keesley to make this program a model for other circuits and other states. I have actively supported this program since its inception, and I have seen the results this program has had on the lives of those who have participated in it. I believe if we could expand programs such as Drug Court, and initiate similar programs such as Mental Health Court, we could more effectively reduce our dockets and criminal recidivism, without sacrificing justice and the safety of our communities.

Unlike attorneys in the private sector, I have been responsible for supervising and reducing our county’s entire General Sessions docket. I would approach the Common Pleas docket with the same determination and commitment.

As a deputy solicitor and as an office manager, I am called upon to solve problems. I know how to bring people together, to find solutions, and to maintain a good work environment in our office, and good working relationships with attorneys outside our office. I believe my talents and experience, together with my commitment to doing what is both just and fair, would serve me well should I have the honor to be a Circuit Court Judge.

**The Midlands Citizens Advisory Committee found Mr. Hubbard to be “Well-Qualified” for each of the nine evaluative criteria: constitutional qualifications, ethical fitness, professional and academic ability, character, reputation, physical health, mental stability, experience, and judicial temperament. They also reported the following regarding Mr. Hubbard: “The committee was very impressed by Mr. Hubbard. With his extensive experience of service to the Eleventh Circuit, his impeccable character, and his strong work ethic, we are confident that he is a very eminently qualified and most highly regarded candidate who would serve the Circuit Court in a most outstanding manner.”**

(11) Commission Members’ Comments:

The Commission commented on Mr. Hubbard’s dedicated work as a public servant and as evidenced by his award of the Ernest F. Hollings Award for Excellence in State Prosecution, General Sessions (2007). They noted that he also has a great work ethic, which would be an asset as a Circuit Court judge.

(12) Conclusion:

The Commission found Mr. Hubbard qualified and nominated him for election to the Circuit Court.

**Stephanie Myrick Pendarvis McDonald**

**Circuit Court, At-Large, Seat 8**

**Commission’s Findings: QUALIFIED, BUT NOT NOMINATED**

(1) Constitutional Qualifications:

Based on the Commission’s investigation, Ms. McDonald meets the qualifications prescribed by law for judicial service as a Circuit Court judge.

Ms. McDonald was born in 1969. She is 40 years old and a resident of Charleston, South Carolina. Ms. McDonald provided in her application that she has been a resident of South Carolina for at least the immediate past five years and has been a licensed attorney in South Carolina since 1994.

(2) Ethical Fitness:

The Commission’s investigation did not reveal any evidence of unethical conduct by Ms. McDonald.

Ms. McDonald demonstrated an understanding of the Canons of Judicial Conduct and other ethical considerations important to judges, particularly in the areas of ex parte communications, acceptance of gifts and ordinary hospitality, and recusal.

Ms. McDonald reported that she has made $84 in campaign expenditures for stationary.

Ms. McDonald testified she has not:

(a) sought or received the pledge of any legislator prior to screening;

(b) sought or been offered a conditional pledge of support by a legislator;

(c) asked third persons to contact members of the General Assembly prior to screening.

Ms. McDonald testified that she is aware of the Commission’s 48-hour rule regarding the formal and informal release of the Screening Report.

(3) Professional and Academic Ability:

The Commission found Ms. McDonald to be intelligent and knowledgeable. Her performance on the Commission’s practice and procedure questions met expectations.

Ms. McDonald described her past continuing legal or judicial education during the past five years as follows:

Conference/CLE Name Date

(a) “Domestic Violence and the Criminal Justice System” 07/09/2009;

(b) “It’s All a Game – Top Trial Lawyers Tackle Evidence” 02/13/2009;

(c) South Carolina Bar Convention 24th Annual

Criminal Law Update Seminar 01/23/2009;

(d) SCIRF Law Enforcement Defense Seminar 10/3/2008;

(e) Federal Bar Association Ethics Seminar 09/11/2008;

(f) Training - Commission on Judicial Conduct 09/2008;

(g) South Carolina Trial Lawyers Annual Convention CLEs 08/3/2008;

(h) Chief Justice Toal’s Ethics/Baseball Seminar 07-08/2008;

(i) SCIRF Law Enforcement Defense Seminar 10/05/2007;

(j) Chief Justice Toal’s Ethics/Baseball Seminar 07/12/2007;

(k) SCIRF Law Enforcement Defense Seminar 11/17/2006;

(l) “Steroids and the Ethics of Baseball” 08/12/2006;

(m) South Carolina Trial Lawyers Annual Convention CLEs 08/3/2006;

(n) SCIRF Law Enforcement Defense Seminar 9/30/2005;

(o) U.S. District Court Electronic Filing System CLE 05/03/2005

(p) “Police Indiscretion: Litigation and Liability” 02/15/2005;

(q) SCIRF Law Enforcement Defense Seminar 10/1/2004;

(r) Revised Lawyers Oath Seminar 10/1/2004;

(s) “Nursing Home Malpractice in South Carolina” 09/24/2004;

(t) FBA’s “Federal Practice in the District of S.C.” 09/10/2004;

(u) “U.S. Supreme Court Review” 07/22/2004.

Ms. McDonald reported that she has taught the following law-related courses:

(a) In 2006, I spoke at the Insurance Reserve Fund’s Law Enforcement Defense Seminar (CLE) on recent developments in constitutional law and the changing composition of the Fourth Circuit and the United States Supreme Court.

(b) At the 2004 South Carolina Conference of Countywide Elected Officials (SCACEE Conference), I spoke about the operation of South Carolina’s Freedom of Information Act and provided an update on recent South Carolina cases impacting countywide elected officials.

(c) In June of 2003, I taught a one-hour session at the South Carolina Defense Trial Lawyers’ Trial Academy. I believe it was on cross-examination, but I honestly cannot remember.

(d) I presented the “Ethics” portion for the 2001 Charleston Lawyers Club Law Week CLE. The topic was *“Ten Ways to Avoid the Office of Disciplinary Counsel and Tips for Handling that Dreaded Letter.”*

(f) At the 2000 Conference for Attorneys to Assist Disciplinary Counsel, I

provided an investigation checklist for Attorneys to Assist and spoke on how to conduct a thorough investigation.

(g) In 1998, I spoke at the American Bar Association’s Affiliate Outreach Seminar in Las Vegas. The presentation was about the South Carolina Bar Young Lawyer’s Division’s “*Lawyers as Mentors*” project and provided instruction for other YLDs interested in starting similar programs in their states.

(h) In 1997, I spoke at the American Bar Association’s Affiliate Outreach

Seminar in Tampa. The presentation was about the South Carolina Bar Young Lawyer’s Division’s “*Citizenship in Schools*” project and provided instruction for other YLDs interested in starting similar programs in their states.

Ms. McDonald reported that she has published the following:

“Co-author, Recent Developments in Government Operations and Liability Law:

Annual Update on Public Official Immunities, The Urban Lawyer, 1997.”

(4) Character:

The Commission’s investigation of Ms. McDonald did not reveal evidence of any founded grievances or criminal allegations made against her. The Commission’s investigation of Ms. McDonald did not indicate any evidence of a troubled financial status. Ms. McDonald has handled her financial affairs responsibly.

The Commission also noted that Ms. McDonald was punctual and attentive in her dealings with the Commission, and the Commission’s investigation did not reveal any problems with her diligence and industry.

(5) Reputation:

Ms. McDonald reported that her Martindale-Hubbell rating is BV.

Ms. McDonald further reported with respect to holding public office:

I have not elected held public office, but I have been appointed by the South Carolina Supreme Court to positions affiliated with the Office of Disciplinary Counsel. From 1999-2002, I served as an Attorney to Assist Disciplinary Counsel. In January of 2003, I was appointed to the South Carolina Commission on Judicial Conduct. I am currently serving my second term on the Commission.

As I have not filed reports with the State Ethics Commission during these terms of service, I recently contacted Counsel to the Commission, Debbie McKeown, to confirm that I am not in violation of the State Ethics Laws. Her contact number is (803) 734-1965 if Commission Counsel or members of the Judicial Merit Selection Commission need further information.

(6) Physical Health:

Ms. McDonald appears to be physically capable of performing the duties of the office she seeks.

(7) Mental Stability:

Ms. McDonald appears to be mentally capable of performing the duties of the office she seeks.

(8) Experience:

Ms. McDonald was admitted to the South Carolina Bar in 1994.

She gave the following account of her legal experience since graduation from law school:

Stuckey & Senn: August 1994 through June 1997:

After taking the Bar exam, I worked as an associate at Stuckey & Kobrovsky in Charleston. This firm later became Stuckey & Senn. Although this was a general practice, and I worked on some probate matters and business litigation, my primary areas of work involved constitutional and governmental issues. The first three cases that I tried on my own involved constitutional claims in United States District Court.

I became quite ill while pregnant with my only child and was forced to take a two-month leave of absence for home intravenous treatments. Upon my return to work in August of 1997, I decided to go out on my own and focus on the handling of appellate matters for several law firms. I maintained this solo practice from August of 1997 through approximately 2003. During this time period, I handled appeals for:

(a) Stuckey Law Firm

(b) Sandra J. Senn, P.A.

(c) Clawson & Staubes

(d) Rhoad Law Firm (Bamberg)

(e) Padgett Law Firm (Bennettsville)

(f) Jennings and Harris (Bennettsville)

(g) Jay Ervin (Darlington)

I also did other work for:

(a) Joye Law Firm

(b) David Whittington

(c) Robert Gailliard

(d) John Price Law Firm

(e) E. Bart Daniel

(f) J. Brady Hair

(g) Larry Kobrovsky

(h) Stanley Feldman

The bulk of my work during this time period, however, was with Sandy Senn, with whom I have worked since graduating from law school. We continued to try cases together until forming the firm of Senn, McDonald & Leinbach, LLC, where I am currently the managing partner.

My current practice focuses on a variety of appellate matters and the defense of public officials, law enforcement agencies, state agencies, and local governments, and state in state and federal courts. I also handle some trial level cases for plaintiffs, primarily in the field of employment discrimination and harassment, but I estimate that about 70% of my practice is in the area of civil defense.

Ms. McDonald further reported:

Although my practice has focused on civil defense, the areas in which I have worked will assist with the duties required of a judge in General Sessions Court as well. I have practiced constitutional law for fifteen (15) years, working on cases involving allegations of illegal search and seizure, violation of the right to counsel, *Brady* violations and the requirements of Rule 5, entrapment, lack of probable cause, and other interesting claims.

I have tried over forty (40) cases as either lead counsel or co-counsel, and our work requires that I remain cognizant of decisions in the areas of constitutional and criminal law. In addition, I have personally handled at least thirty-five (35) appeals, and I have assisted attorneys at other firms with at least fifteen (15) others.

In order to gain experience in the more procedural areas of criminal law, I have attended CLEs involving topics of criminal prosecution and defense, and I recently volunteered to serve as a prosecutor for the Attorney General’s Criminal Domestic Violence task force. Since our firm serves as counsel for the South Carolina Sheriffs’ Association, I have also had the honor of working with Sheriffs from all across the State of South Carolina.

I have represented juveniles in Family Court as both appointed defense counsel and as a Guardian ad Litem, and I believe that the administrative skills gained through my community service leadership will assist with docket management and control. I currently represent a young lady charged by a municipality with “unlawful assembly.” As I believe that the town ordinance which she is alleged to have violated is unconstitutional, I am very much looking forward to representing her in municipal court in the next few months.

Finally, as my law partner is a member of the Attorney General’s Dog fighting Task Force, in 2004, I was able to assist with the “custody trial” following the confiscation of 47 abused dogs from David Ray Tant, one of the nation’s worst offenders in the area of dog fighting. We tried the forfeiture/custody case in Charleston County, but Tant’s criminal trial was held in Greenwood. Two days into his jury trial, Tant pled guilty to several of the charges against him and was sentenced to thirty (30) years in prison. Subsequently, our firm has worked on other cases for the Task Force.

I have handled a variety of civil matters over the past five years. Five of these are discussed in detail in response to my most significantly litigated matters discussed below. Some others include:

(a) Hamilton v. Charleston County Sheriff’s Office, Charleston County (June 2009): This case involved allegations of negligent hiring and negligent supervision of an employee of the Charleston County Detention Center. After a four-day trial this past June, we received a directed verdict on all causes of action. The case is currently on appeal.

(b)Brown v. County of Berkeley, Berkeley County (2004-2009)*:* In this case, the Berkeley County Clerk of Court sued the former County Supervisor, the members of County Council, and the County for defamation and a variety of other causes of action after the County called for a special audit pursuant to S.C. Code Section 4-9-150. Plaintiff also sought a TRO to stop the special audit. Plaintiff appealed the denial of the motion for injunctive relief, but the South Carolina Supreme Court affirmed. *See* Brown v. County of Berkeley*,* 366 S.C. 354, 622 S.E.2d 533 (2005). Defendants were granted summary judgment on all causes of action this year.

(c) Bynum v. South Carolina Dept. of Corrections: Sandy Senn and I tried this medical malpractice case for seven (7) days in Clarendon County in 2006. The jury returned an $825,000.00 verdict for the plaintiff, reduced by 40% for the plaintiff’s comparative negligence.

(d) Mills v. City of North Charleston (2004): Plaintiff was arrested for attempting to solicit an undercover officer, but following his claim that he was entrapped, the charges were dropped. A subsequent civil rights claim followed. After Judge Houck ruled that the tape of the incident would be admitted for purposes of the Motion for Summary Judgment and any subsequent trial, the plaintiff took a voluntary dismissal.

(e) *Davis v. South Carolina Dept. of Corrections*, U.S. District Court (2007). This case alleged medical malpractice and constitutional rights violations. It was settled following the submission of the summary judgment memoranda.

(f) Sunset Cay v. City of Folly Beac*h*, 357 S.C. 414, 593 S.E.2d 462 (2004).

This was a declaratory judgment action seeking to require Folly Beach to provide sewer service to a remote property. The Honorable A. Victor Rawl dismissed the case, Sunset Cay appealed, and the S.C. Supreme Court affirmed.

(g) Demetre v. City of Folly Beach (2009): I handled only the appeal of this case, which involved a landowner’s claim that a certain street had not been properly dedicated to Folly Beach back in the 1930s. In an unpublished opinion, the South Carolina Court of Appeals affirmed the Master’s ruling for the City. Plaintiff has petitioned for certiorari to the S.C. Supreme Court.

(h) Jamison v. Ford Motor Company, 373 S.C. 248, 644 S.E.2d 755 (Ct. App. 2007), cert. granted (July 10, 2008). I was retained at the post-trial motions stage to represent the plaintiffs in this products liability matter. Plaintiffs’ daughter was killed in a 15 mile-per-hour accident when the seatbelt that was supposed to protect her lacerated her liver. The jury returned a verdict for the defendant, and the South Carolina Court of Appeals affirmed. The South Carolina Supreme Court has granted certiorari, and the case will be argued in September.

These are just a few of the cases that I have handled over the past five years.

Ms. McDonald reported the frequency of her court appearances during the past five years as follows:

(a) Federal: 1-2 times per month;

(b) State: 5-7 times per month, unless we were in trial.

Ms. McDonald reported the percentage of her practice involving civil, criminal, and domestic matters during the past five years as follows:

(a) Civil: 90%;

(b) Criminal: 5% (generally municipal court or magistrate court);

(c) Domestic: 5% (appellate matters and appointed DSS cases).

Ms. McDonald reported the percentage of her practice in trial court during the past five years as follows:

(a) Jury: 95%;

(b) Non-jury: 5%.

Ms. McDonald provided that she most often served as sole counsel or co-counsel with another of my law partners.

The following is Ms. McDonald’s account of her five most significant litigated matters:

(a) Erickson v. Winner, Charleston County Court of Common Pleas (March 2006). This case arose from the “Domestic Court Reform Movement” that took place in South Carolina in the early 1990s. The plaintiff, a former Dorchester County Guardian ad Litem, sued a number of defendants following the issuance of “The Winner Report,” which offered a scathing view of South Carolina’s private Guardian ad Litem system. A lengthy article in the Charleston City Paper followed the issuance of the report, and the plaintiff subsequently sued several defendants for defamation and other torts. My law partner and I represented the South Carolina Governor’s GAL Office and a county office supervisor, receiving a directed verdict on all causes of action after three weeks of trial. Following the fourth week of trial, the jury returned a 6.5 million dollar verdict against several of the remaining defendants. The subsequent appeal against our clients has been dismissed. I now represent two of the co-defendants who have appealed the verdict.

(b) Pelaccio v. Charleston County Sheriff’s Office, Berkeley County Court of Common Pleas (April 2005). This wrongful death action arose after a father held his infant hostage and threatened to kill the child and blow up the family’s home. He also threatened several members of law enforcement responding to the scene. After an all-night stand-off, the father emerged from the house, holding a knife to the baby’s neck. When he refused to remain in a location safe for the Charleston County SWAT team to retrieve the baby from the porch, a police sniper shot him in order to ensure the safety of the child and the officers on the scene. We were honored to represent the Charleston County Sheriff’s Office in this matter, and after a four-day trial, the jury returned a defense verdict.

(c) Cowsert v. Brown, Charleston County Court of Common Pleas (April 2006). My law partner and I represented the plaintiffs in this matter, which arose after Betty Sue Cowsert fell from the elevated, second-story porch of her Folly Beach home. The contractor who built the Cowsert home had failed to secure a portion of the porch railing in any way it was not nailed, glued, or secured to the main railing area. When the railing gave way, Mrs. Cowsert fell, suffering serious injuries. Following the four-day trial, the jury returned a significant verdict for the plaintiffs.

(d) Gregory v. Zumalt, U.S. District Court, Charleston Division (February 2007). This highly-publicized case arose after an officer with the City of North Charleston shot a man threatening officers with a knife and a screwdriver. The screwdriver had been sharpened to resemble an ice pick. After threatening an eight-months pregnant Piggly Wiggly cashier with the knife, the suspect led the officers across a busy parking lot and Rivers Avenue. He refused to drop the weapons and stabbed one of the officers in the chest, puncturing his shirt and vest. After repeated verbal commands to drop the weapons, the suspect charged the officers and was shot. The decedent’s family subsequently filed a civil rights suit, alleging that the officers had violated the decedent’s constitutional rights and committed excessive force against him. Following a five-day trial, the Honorable P. Michael Duffy granted all defendants judgment as a matter of law on all causes of action. The Fourth Circuit affirmed Judge Duffy’s decision without oral argument. *See* *Gregory v. Zumalt*, 294 Fed.Appx. 792, 2008 WL 4410375 (4th Cir. Sept. 26, 2008) (*unpublished*)

(e) The City of Charleston “Sofa Super Fire” aftermath:

My law partner and I represent the City of Charleston in the matters arising from this tragic 2007 fire which took the lives of nine Charleston firefighters. This work has involved numerous matters, including representation during the SC-OSHA investigation, before the OSHA hearing officer, and throughout the investigations conducted by various federal agencies and law enforcement entities. Currently, our firm is opposing the attempts by two of the co-defendants to join the City of Charleston as a defendant in the plaintiffs’ nine pending lawsuits. (Workers’ Compensation benefits have previously been paid, and numerous sections of the Tort Claims Act and the South Carolina Contribution among Tortfeasors Act bar the suit against the City). Motions have been argued and the judge currently has the matter under advisement.”

The following is Ms. McDonald’s account of five civil appeals she has personally handled:

(a) Henry v. Horry County, 334 S.C. 461, 514 S.E.2d 122 (1999);

(b) Brown v. Daniel, 230 F.3d 1351, 2000 WL 1455443 (4th Cir. Sept. 9, 2000)(unpublished opinion);

(c) Mentavlos v. Anderson, 249 F.3d 301 (4th Cir. 2001), *cert. denied*, 534 U.S. 952 (Oct. 9, 2001);

(d) Sunset Cay v. City of Folly Beach, 357 S.C. 414, 593 S.E.2d 462 (2004);

(e) Jamison v. Ford Motor Company, 373 S.C. 248, 644 S.E.2d 755 (Ct. App. 2007), (July 10, 2008).

The following is Ms. McDonald’s account of the criminal appeals she has personally handled:

(a) United States v. Luther Ray Cyrus, 132 Fed.Appx. 441 (4th Cir. May 24, 2005) (for attorney Jay Ervin);

(b) United States v. Dalton, 477 F.3d 195 (4th Cir. 2007) (I assisted attorney Stanley Feldman with his preparation of the brief and for oral argument).

(9) Judicial Temperament:

The Commission believes that Ms. McDonald’s temperament would be excellent.

(10) Miscellaneous:

Ms. McDonald is not married. She has one child.

Ms. McDonald reported that she was a member of the following bar associations and professional associations:

(a) South Carolina Bar Association

Positions held for the Young Lawyers Division:

Chair, Law School for Non-Lawyers project (1998)

Co-Chair, Lawyers as Mentors project (1997)

Chair, “Citizenship in Schools” project at Fraser Elementary School (1996)

Co-Chair, Lawyers for Literacy project (1995)

Delegate, American Bar Association Annual Meeting (Young Lawyers

Division), San Francisco (Summer 1997);

(b) Charleston County Bar Association;

(c) Charleston Lawyers Club (1994-2004)

President, 1998-1999;

(d) Federal Bar Association;

(e) Former member of American Bar Association.

Ms. McDonald provided that she was a member of the following civic, charitable, educational, social, or fraternal organizations:

(a) Board Member, South Carolina Bar Foundation, 1998-2001;

(b) Board Member, Association of Junior Leagues International, Inc.

New York, NY (June 2006 – June 2009);

(c) President-Elect, Junior League of Charleston, June 2009 – present

(This is my fourth term on the Board of Directors since 2000.);

(d) Commissioner, City of Charleston Mayor’s Office for Children, Youth & Families (2000-03);

(e) Chair and Parliamentarian, 120th Annual Meeting of the Episcopal Church Women of the Diocese of South Carolina (Spring 2004);

(f) President, St. Philip’s Episcopal Church Women (ECW) (1993-94);

(g) Member, City of Charleston Leadership Team, National League of Cities

Municipal Leadership in Education Project (2001-03);

(h) Board Member, Youth Service Charleston (2001-03);

(i) Graduate, Leadership Charleston Class of 2001;

(j) Youth Mentor, Mitchell Elementary School (1998-2001);

(k) Advisory Board, Charleston County School District Parenting Center,

District #20 (2000-01);

Honors:

(a) Junior League of Charleston Community Impact Award (2002)

Law School:

(a) American Jurisprudence Award for Evidence;

(b) American Jurisprudence Award for Moot Court;

(c) First Year Section Legal Writing Award;

(d) Order of the Barristers;

Undergraduate:

(a) Algernon Sydney Sullivan Award;

(b) Phi Beta Kappa;

(c) Mortar Board Graduate Fellowship;

(d) Dorothy Shaw Leadership Award (National Sorority Award);

(e) USC Hall of Leaders;

(f) Josiah Morse Award for Philosophy.

Ms. McDonald further reported:

My daughter starred as “Scout” in the Charleston Stage production of “To Kill a Mockingbird” this past February. Watching her in that role - - and watching the character of Atticus Finch multiple times in a three-week period reaffirmed for me the knowledge that treating others fairly, with impartiality, with integrity, and with dignity is critical to the practice of law and our judicial system. These are characteristics that I would like to bring to the bench. If elected, I plan to be a judge known for her good temperament, patience, scholarship, work ethic, and willingness to make a decision.

Service has been an important part of my life for as long as I can remember, and I can think of nothing that I would rather do than serve the people of South Carolina in this position.

**The Low Country Citizens Committee found Ms. Stephanie Pendarvis McDonald “Qualified” for each of the nine evaluative criteria: constitutional qualifications, ethical fitness, professional and academic ability, character, reputation, physical health, mental stability, experience, and judicial temperament. However, with respect to her experience, they noted that “she is lacking the necessary criminal trial experience needed for this position.”**

(11) Commission Members’ Comments:

The Commission found that Ms. McDonald is a quality candidate who exhibited a great presence through the screening process, and had a great explanation for handling the backlog of cases on the Circuit Court docket. They noted that she is very intelligent, as exemplified by her high test score and the Commission stated that it fully expects to see Ms. McDonald in the future.

(12) Conclusion:

The Commission found Ms. McDonald qualified, but not nominated, to serve as a Circuit Court judge.

**Maité Murphy**

**Circuit Court, At-Large, Seat 8**

**Commission’s Findings: QUALIFIED AND NOMINATED**

(1) Constitutional Qualifications:

Based on the Commission’s investigation, Judge Murphy meets the qualifications prescribed by law for judicial service as a Circuit Court judge.

Judge Murphy was born in 1969. She is 40 years old and a resident of Summerville, South Carolina. Judge Murphy provided in her application that she has been a resident of South Carolina for at least the immediate past five years and has been a licensed attorney in South Carolina since 1995.

(2) Ethical Fitness:

The Commission’s investigation did not reveal any evidence of unethical conduct by Judge Murphy.

Judge Murphy demonstrated an understanding of the Canons of Judicial Conduct and other ethical considerations important to judges, particularly in the areas of ex parte communications, acceptance of gifts and ordinary hospitality, and recusal.

Judge Murphy reported that she has spent $577.19 in campaign expenditures for mailing costs and copying costs for stationary.

Judge Murphy testified she has not:

(a) sought or received the pledge of any legislator prior to screening;

(b) sought or been offered a conditional pledge of support by a legislator;

(c) asked third persons to contact members of the General Assembly prior to screening.

Judge Murphy testified that she is aware of the Commission’s 48-hour rule regarding the formal and informal release of the Screening Report.

(3) Professional and Academic Ability:

The Commission found Judge Murphy to be intelligent and knowledgeable. Her performance on the Commission’s practice and procedure questions met expectations.

Judge Murphy described her past continuing legal or judicial education during the past five years as follows:

Conference/CLE Name Date

(a) Criminal Law Update 01/25/08;

(b) Sidebar Live 02/22/08;

(c) Criminal Law Update 01/26/07;

(d) S.C. Civil Procedure Update 02/16/07;

(e) Criminal Law Update 01/21/05;

(f) Attorney ECF Training 07/21/05;

(g) Avoiding Real Estate Malpractice Hazards 11/17/05;

(h) Annual Solicitors’ Conference 09/26/04;

(i) Revised Lawyers Oath 09/27/04;

(j) Solicitor’s Association 09/28/03.

Judge Murphy reported that she has taught the following law-related courses:

“I taught business law courses at Midlands Technical College in Columbia in 1996 and 1997.”

Judge Murphy reported that she has not published any books or articles.

(4) Character:

The Commission’s investigation of Judge Murphy did not reveal evidence of any founded grievances or criminal allegations made against her. The Commission’s investigation of Judge Murphy did not indicate any evidence of a troubled financial status. Judge Murphy has handled her financial affairs responsibly.

The Commission also noted that Judge Murphy was punctual and attentive in her dealings with the Commission, and the Commission’s investigation did not reveal any problems with her diligence and industry.

(5) Reputation:

Judge Murphy reported the following regarding her rating by Martindale-Hubbell:

“Although I have not subscribed to be listed in Martindale-Hubbell, I am listed and my lawyer profile online states a visibility index of being # 3 out of 54 lawyers in Summerville and number #122,689 out of #889,357 lawyers overall. I have not subscribed to this service in the past as it has been described by some as a form of advertising which I did not feel was necessary for the success of our firm.”

(6) Physical Health:

Judge Murphy appears to be physically capable of performing the duties of the office she seeks.

(7) Mental Stability:

Judge Murphy appears to be mentally capable of performing the duties of the office she seeks.

(8) Experience:

Judge Murphy was admitted to the South Carolina Bar in 1995.

She gave the following account of her legal experience since graduation from law school:

I began practicing law in Columbia as a partner with the law firm of Holler, Dennis, Corbett & Garner. I began with said practice in January of 1996 and my practice was a general practice. My practice at that time was primarily focused on civil litigation in the Courts of Common Pleas and General Sessions. I also handled domestic matters in Family Court and cases in Magistrate and Municipal Courts. My husband and I then moved from Richland County to Dorchester County in March of 1998 and I was employed as an associate for Richard Wern in North Charleston where I handled civil litigation matters in State and Federal Court until I obtained a position at the First Circuit Solicitor’s Office in October of 1998.

During my tenure at the Solicitor’s office I rose to the rank of Chief Deputy Solicitor for the First Judicial Circuit. I was second in command to the Solicitor for the entire circuit which is comprised of Calhoun, Dorchester and Orangeburg Counties. I operated under a grant dedicated to prosecuting crimes of violence against women. I was in charge of prosecuting all violent crimes against women and children. I successfully tried cases of murder, kidnapping, arson, armed robbery, burglary, criminal sexual conduct (all degrees), lewd act upon a child, unlawful conduct towards a child, felony child abuse, sexual exploitation of minors, assault and battery with intent to kill, assault and battery of a high and aggravated nature, drug and alcohol offenses and criminal domestic violence. I also assisted Solicitor Walter Bailey with the trials of four death penalty cases.

I left the Solicitor’s Office in 2005 to join the practice of Quattlebaum & Murphy, L.L.P. where I am currently a partner. Our firm is a general practice and I specialize in criminal and civil litigation matters in all courts and also handle domestic litigation.

Judge Murphy further reported:

I have successfully tried many criminal cases involving complex evidentiary issues. I have handled these matters from the beginning stages of having a bond set through trial. My experience as Chief Deputy Solicitor also gave me valuable experience in managing a docket which I believe is very important experience for a Circuit Court Judge to have considering the high volume of cases currently pending that need to be disposed of in an efficient and fair manner.

My ability to handle civil matters as well is clearly illustrated by my appointment to serve as the Special Referee in the Exxon class action suit which was filed in Orangeburg County Case Number 94-CP-38-118. As Special Referee I was responsible for reviewing all claims submitted and I was responsible for holding each claimant to the burden of establishing, by a preponderance of the evidence, that each claimant was a member of the class defined by the settlement agreement and that their property had been damaged by petroleum contamination attributable to ExxonMobil’s underground storage tanks or service station operations. I was also responsible for holding ExxonMobil to its burden of establishing its affirmative defenses by a preponderance of the evidence. It was then my duty to make the findings of facts and conclusions of law as to each of the defenses raised and as to each of the claim submissions and issue a Final Report to the Court. These duties included the review of expert opinions and the necessary elements of causation and proof of each claim. The experience of serving as the Special Referee in a case of this magnitude proves my ability to handle complex civil litigation matters.

Private practice has further allowed me to gain valuable experience in handling effectively both criminal and civil matters. The civil litigation that I have been involved in while in private practice has involved work for both plaintiffs and defendants. The types of civil cases that I have had the opportunity to work on have involved personal injury cases for plaintiffs, contract conflicts and the representation of parties involved in the dissolutions of partnerships and corporate entities. I am confident that my work experience in both private practice and the Solicitor’s office has prepared me well to perform the duties of the Court impartially, fairly and competently.

Judge Murphy reported the frequency of her court appearances as follows:

(a) Federal: 2%;

(b) State: 98%.

Judge Murphy reported the percentage of her practice involving civil, criminal, and domestic matters as follows:

(a) Civil: 30%;

(b) Criminal: 55%;

(c) Domestic: 15%.

Judge Murphy reported the percentage of her practice in trial court as follows:

(a) Jury: 30%;

(b) Non-jury: 70%.

Judge Murphy provided that she most often served as sole counsel.

The following is Judge Murphy’s account of her five most significant litigated matters:

(a) One of my most significant litigated matters that I personally handled was the murder case of State v. Robinson in Dorchester County. This was a significant trial for several reasons. It was a significant accomplishment to obtain a just verdict of guilty due to the fact that the case was based purely on circumstantial evidence. The victim in the case was a young mother who was brutally murdered with a tire iron tool in her home. Her body was then taken to a neighboring county and dumped in the woods and her home was set on fire. I worked closely with law enforcement to piece together the evidence necessary to try the murder case. Although the murder weapon was never found, we were able to establish that the tire iron tool from the victim’s car was missing. Through manufacturing records of the car companies I was able to obtain a tire iron tool from the car manufacturer which would have been like the one missing from the victim’s car. I was then able to match the skull fracture patterns to the missing tire iron tool shape through expert forensic testimony. I was able to establish the estimated time of death through expert testimony from analyzed larvae and the related growth stages of the larvae from the body at the autopsy. This testimony assisted in placing the defendant at the time and place of the murder. I worked with SCLED arson and blood spatter experts to establish the manner in which she was murdered in the home and how the home was then set on fire in an attempt to destroy the evidence of the murder. There were many evidentiary and procedural issues in this trial which had to be handled effectively to ensure that the victim’s killer was properly brought to justice.

(b) Another significant trial that I handled was felony child abuse trial involving a five year old developmentally delayed victim. The child was sent by helicopter to the Medical University of South Carolina in an unresponsive state with a significant bruise on his chest and another bruise on the side of his head behind his ear. The defendant was the child’s father and he had called an ambulance and stated that the child had fallen in the bath tub. The child barely survived the brutal attack and upon receiving the case it was obvious that it would be a difficult case to get to a jury due to the fact that the child was only five years old, non-communicative and unable to testify as to the cause of his injuries. Further, his mother was not cooperative and protective of the defendant. I prosecuted her as well for failing to protect her child. I began preparing for this case by obtaining a complete medical history of the child and discovered by review of numerous scattered medical records that the child had been blinded in his right eye as an infant, and had suffered two broken femurs before the attack in question. I was able to obtain experts to review the previous injuries to establish a pattern of abuse and neglect by the defendants. It was determined that the eye injury was to a reasonable degree of medical certainly caused by violent shaking of the child as an infant and the two femoral breaks were not accidental in nature but were caused as a result of physical abuse to due to the pattern of the breaks in question. Both parents of the child in question were convicted and the child was taken in by a relative and began to thrive and grow once being placed outside of an abusive environment.

(c) I successfully prosecuted another significant felony child abuse trial in which a three year old child’s hand was submerged in scalding hot water as punishment for sucking his thumb. The child received third degree burns as a result of his injuries and was left in pain in his home without medical treatment until the following day when he was discovered by his aunt who then took him to the hospital. Unfortunately, by the time he was taken for medical treatment the severity of the burns had caused his fingers to become webbed together. The child’s hand was at risk of having to be amputated but was saved. He had to undergo and will continue to have to undergo numerous surgeries throughout his life as a result of the burns inflicted on him. Due to his age and horrific justifiable fear of the defendant I had to prosecute the case without the testimony of the child and had to rely on the only other witness that placed the defendant in the bathroom with the victim. My corroborating witness was only seven years of age but was competent to testify and I was able to obtain and introduce at trial sufficient other medical and physical evidence which proved that the defendant was the one that inflicted the injuries on the child.

(d) I personally handled the trial of State v. Inman which resulted in a life sentence for the defendant in question. The defendant in this case was charged with kidnapping three young children at gunpoint and holding them hostage in his trailer. He locked two of the male victims in one room while he proceeded to sexually assault the young female in the living room of his home. The defendant had a prior record which included a violent, most serious offense and therefore I served him with notice to seek a life sentence at the trial of his case. I was able to successfully try the case with all three children being competent to testify as well as being able to successfully present the testimony of law enforcement and other forensic experts to prove his guilt beyond a reasonable doubt.

(e) I tried another case that led to a 60 year sentence for a defendant that was convicted of sexually assaulting his own teenage daughter at knife point and he was also convicted of attempting to intimidate the potential witnesses that were subpoenaed to testify at the trial of his case in the trial of State v. Brown. This was a significant case as not only did I have to prove the criminal sexual conduct had occurred, but I also had to deal with witnesses that had been physically threatened and did not want to testify for fear of their safety. Procedurally, the rape case was difficult in that the assault was not immediately reported, thereby not giving us the opportunity of having physical forensic evidence to link the defendant to the crime. As is the case with many trials of criminal sexual conduct it is necessary to know how appropriate expert testimony is presented to explain the lack of forensic evidence and one must also be able to understand procedurally how to present appropriate psychological testimony which can corroborate symptoms consistent with trauma caused by sexual and or physical abuse.

Judge Murphy reported that she has not personally handled any criminal or civil appeals.

Judge Murphy reported that she has held the following judicial office:

“I currently serve as Associate Chief Magistrate for Dorchester County.”

Judge Murphy further reported the following regarding an unsuccessful candidacy: “Not applicable.” However, in the fall of 2008, Judge Murphy ran for election to the Circuit Court, 1st Circuit, Seat 1. She was found qualified by the Screening Committee, but was not nominated.

(9) Judicial Temperament:

The Commission believes that Judge Murphy’s temperament would be excellent.

(10) Miscellaneous:

Judge Murphy is married to Christopher John Murphy. She has two children.

Judge Murphy reported that she was a member of the following bar associations and professional associations:

(a) South Carolina Bar Association – 1995 to present;

(b) South Carolina Women’s Bar Association – 1995 to present;

(c) Dorchester County Bar Association – Current President since 2006; Vice-President 2005; Treasurer 2003-04;

(d) Member of the Richland County Bar-1996-98.

Judge Murphy provided that she was a member of the following civic, charitable, educational, social, or fraternal organizations:

(a) YMCA- Board of Directors- 2006 to present. I serve on the Executive and Programs Committees;

(b) Summerville Rotary Club- 2005 to present. Programs Chair 2007-09;

(c) Summerville Meals on Wheels- Board of Directors 2007-08;

(d) Summerville Republican Women’s Club- Past President and Vice-President. Resigned during my past candidacy for the Circuit Court and upon being appointed Magistrate Court Judge;

(e) Dorchester Children’s Center Development Committee.

**The Lowcountry Citizen’s Committee on Judicial Qualification found Judge Murphy to be “Qualified” for each of the nine evaluative criteria: constitutional qualifications, ethical fitness, professional and academic ability, character, reputation, physical health, mental stability, experience, and judicial temperament.**

(11) Commission Members’ Comments:

The Commission commented that Judge Murphy has both criminal and civil experience, which would be an asset on the Circuit Court bench. They noted her achievements with the Bar and in her local community.

(12) Conclusion:

The Commission found Judge Murphy qualified and nominated her for election to the Circuit Court.

**Andrea Culler Roche**

**Circuit Court, At-Large, Seat 8**

**Commission’s Findings: QUALIFIED, BUT NOT NOMINATED**

(1) Constitutional Qualifications:

Based on the Commission’s investigation, Ms. Roche meets the qualifications prescribed by law for judicial service as a Circuit Court judge.

Ms. Roche was born in 1966. She is 43 years old and a resident of Columbia, South Carolina. Ms. Roche provided in her application that she has been a resident of South Carolina for at least the immediate past five years and has been a licensed attorney in South Carolina since 1994. She was also admitted to the Louisiana Bar in 1996.

(2) Ethical Fitness:

The Commission’s investigation did not reveal any evidence of unethical conduct by Ms. Roche.

Ms. Roche demonstrated an understanding of the Canons of Judicial Conduct and other ethical considerations important to judges, particularly in the areas of ex parte communications, acceptance of gifts and ordinary hospitality, and recusal.

Ms. Roche reported that she has not made any campaign expenditures.

Ms. Roche testified she has not:

(a) sought or received the pledge of any legislator prior to screening;

(b) sought or been offered a conditional pledge of support by a legislator;

(c) asked third persons to contact members of the General Assembly prior to screening.

Ms. Roche testified that she is aware of the Commission’s 48-hour rule regarding the formal and informal release of the Screening Report.

(3) Professional and Academic Ability:

The Commission found Ms. Roche to be intelligent and knowledgeable. Her performance on the Commission’s practice and procedure questions met expectations.

Ms. Roche described her past continuing legal or judicial education during the past five years as follows:

Conference/CLE Name Date

(a) SCAJ Annual Convention 8/6/09;

(b) SCDTAA Joint Meeting 7/23/09;

(c) SCWCEA Medical Seminar 3/1/09;

(d) SCWCC Annual Education Requirement 12/16/08;

(e) Injured Workers Advocates Convention 11/6/08;

(f) SCWCEA Educational Conference 10/19/08;

(g) S.C. Bar-Dissecting a Workers’ Comp Case 9/5/08;

(h) SCAJ Annual Convention 8/7/08;

(i) SCDTAA Joint Meeting 7/24/08;

(j) SCWCEA Medical Seminar 2/24/08;

(k) SCWCC Ethics and Administrative Procedure 12/18/07;

(l) SCWCEA Educational Conference 10/21/07;

(m) SCDTAA Joint Meeting 7/26/07;

(n) SCWCEA Medical Conference 3/9/07;

(o) Assoc. of Claimant’s Attorneys Convention 11/2/06;

(p) SCWCEA Educational Conference 10/22/06;

(q) S.C. Trial Lawyers Convention 8/3/06;

(r) SCDTAA Joint Meeting 7/27/06;

(s) SCWCEA Educational Conference 10/24/05;

(t) USDCOC Attorney Training 7/20/05;

(u) SCWCEA Medical Seminar 2/25/05;

(v) RCBA Free Ethics Seminar 11/5/04;

(w) Revised Lawyer’s Oath CLE 11/5/04;

(x) SCWCEA Medical Conference 3/12/04.

Ms. Roche reported that she has taught the following law-related courses:

(a) I participate in panel discussions involving workers’ compensation several times per year, including at educational conferences and meetings of SCDTTA, SCAJ, SCWCEA, Self-Insured’s Association, and IWA;

(b) I have taught CLEs on workers compensation;

(c) I have taught CLEs on legal writing;

(d) I have taught legal writing at the University of South Carolina Law School;

(e) I have taught several classes to undergraduate students at South University including International Law, Legal Writing, Workers’ Compensation, Employment Law, Administrative Law, and Business Law.

Ms. Roche reported that she has not published any books or articles.

(4) Character:

The Commission’s investigation of Ms. Roche did not reveal evidence of any founded grievances or criminal allegations made against her. The Commission’s investigation of Ms. Roche did not indicate any evidence of a troubled financial status. Ms. Roche has handled her financial affairs responsibly.

The Commission also noted that Ms. Roche was punctual and attentive in her dealings with the Commission, and the Commission’s investigation did not reveal any problems with her diligence and industry.

(5) Reputation:

Ms. Roche reported that she is not rated by Martindale-Hubbell.

Ms. Roche reported that she has held the following public office:

“Commissioner, South Carolina Workers’ Compensation Commission from July, 2006 to present. Chairman from July, 2008 to present.”

(6) Physical Health:

Ms. Roche appears to be physically capable of performing the duties of the office she seeks.

(7) Mental Stability:

Ms. Roche appears to be mentally capable of performing the duties of the office she seeks.

(8) Experience:

Ms. Roche was admitted to the South Carolina Bar in 1994.

She gave the following account of her legal experience since graduation from law school:

(a) The Honorable Robert F. Chapman, U.S. Court of Appeals for the Fourth Circuit, September 1994-October 1996. Law Clerk. Duties included preparing bench memoranda and drafting opinions.

(b) Phelps Dunbar, New Orleans, LA, October 1996-December 1996. Associate Attorney. Areas of practice were commercial and construction litigation.

(c) South Carolina Court of Appeals, June 1997-August 1998. Law Clerk to the Honorable Carol Connor and Staff Attorney. Duties included preparing bench memoranda and drafting opinions.

(d) Barnes, Alford, Stork and Johnson, August 1998-June 2006. Associate/Partner. My practice consisted of more than half workers’ compensation. I also dealt with medical malpractice, construction and general litigation, and appellate advocacy.

Ms. Roche further reported:

I have no experience in criminal matters. I worked on one post-conviction relief case while I was practicing. I recently, however, spent six months on the Richland County Grand Jury as a juror. Because of that, I spent time studying the elements of various felonies and received first-hand knowledge of the grand jury. I feel strongly that with study and a period of observation, I can confidently preside over criminal proceedings.

Before being appointed to the Workers’ Compensation Commission, my practice was a defense practice mostly before state court and the South Carolina Workers’ Compensation Commission. My practice was approximately 75% workers’ compensation. I also worked on medical malpractice cases. I did some work on construction litigation and general litigation as well. Because of my clerking background, I did a fair amount of the firm’s appellate work on various issues. I have argued various motions before the circuit court and federal district court, tried cases before the Workers’ Compensation Commission and magistrate’s court, and appeared before the South Carolina Court of Appeals and South Carolina Supreme Court.

Ms. Roche reported the frequency of her court appearances during the past five years, prior to her service as a Workers’ Compensation Commissioner, as follows:

(a) federal: 5%;

(b) state: 95%.

Ms. Roche reported the percentage of her practice, prior to her service as a Workers’ Compensation Commissioner, involving civil, criminal, and domestic matters during the past five years as follows:

(a) civil: 99%;

(b) criminal: 0%;

(c) domestic: 1%.

Ms. Roche reported the percentage of her practice, prior to her service as a Workers’ Compensation Commissioner, in trial court during the past five years as follows:

(a) jury: 25% associate counsel;

(b) non-jury: 75% lead counsel.

Ms. Roche provided that she most often served as lead counsel for non-jury matters and associate counsel for jury matters.

The following is Ms. Roche’s account of her five most significant litigated matters:

(a) MB Kahn Construction Co, Inc. v. Three Rivers Bank & Trust Co.

354 S.C. 412, 581 S.E.2d 481 (2003)

This case revolved around whether South Carolina had personal jurisdiction over a plaintiff for cross-claims in a foreclosure action. The Supreme Court decided the issue on one of the grounds argued.

(b) Dawkins v. Jordan, 341 S.C. 434, 534 S.E.2d 700 (2000)

This case involved whether an employer/employee relationship existed between the workers’ compensation claimant and the employer. Although I lost this case at the Supreme Court, after winning below, the Supreme Court recently reversed itself and overruled this case.

(c) William White v. SCE&G

This workers’ compensation case involved whether the claimant could recover for mental injuries without underlying physical injuries. The case went through many levels of appeals with the defendants prevailing.

(d) Norman McIntyre v. Darlington County School District

This workers’ compensation case involved the heart attack standard and the doctrine of laches.

(e) Sandy v. Miller Tire

This worker’s compensation case involved issue of notice and injury by accident arising out of and in the course and scope of employment. The case went through many levels of appeals.

The following is Ms. Roche’s account of five civil appeals she has personally handled:

(a) Brunson v. American Koyo Bearings, 367 S.C. 161, 623 S.E.2d 870 (Ct. App. 2006), decided November 28, 2005 by the South Carolina Court of Appeals.

(b) M.B. Kahn Construction Co. v. Three Rivers Bank & Trust Co., 354 S.C. 412, 581 S.E.2d 481 (2003), decided May 19, 2003 by the South Carolina Supreme Court.

(c) Dawkins v. Jordan, 341 S.C. 434, 534 S.E.2d 700 (2000), decided July 10, 2000 by the South Carolina Supreme Court.

(d) Gray v. Club Group, LTD., 339 S.C. 173, 528 S.E.2d 435 (Ct. App. 2000), decided February 22, 2000 by the South Carolina Court of Appeals.

(e) William White v. SCE&G, not cited.

Ms. Roche reported that she has not personally handled any criminal appeals.

(9) Judicial Temperament:

The Commission believes that Ms. Roche’s temperament would be excellent.

(10) Miscellaneous:

Ms. Roche is married to James Lawrence Roche, Jr.

Ms. Roche reported that she was a member of the following bar associations and professional association:

South Carolina Bar.

Ms. Roche provided that she was a member of the following civic, charitable, educational, social, or fraternal organizations:

(a) Ex officio board member of the South Carolina Workers’ Compensation Education Association;

(b) President of the Ladies’ Guild at St. Mark’s Catholic Church.

Ms. Roche further reported:

Because of my position as a workers’ compensation commissioner, I have experience in hearing contested cases, running a courtroom, dealing with attorneys and their clients as well as dealing with pro se litigants. I also have experience in ruling on cases and issuing orders. Although I have a great deal of academic ability, I also have the common sense and temperament to be an effective judge.

**The Midlands Citizen’s Committee on Judicial Qualification found Ms. Roche “Well-Qualified” for eight of the nine evaluative criteria: constitutional qualifications, ethical fitness, professional and academic ability, character, reputation, physical health, mental stability, and judicial temperament. They found her “Qualified” for one of the criteria, that is, experience. The Committee provided the following summary statement: “The committee was very impressed by Mrs. Roche. She has a most outstanding academic background and a sincere commitment of service to our state. She is highly and eminently qualified to serve as a Circuit Court judge, and we are confident she would continue to serve our state in a most outstanding manner.”**

(11) Commission Members’ Comments:

The Commission commented that Ms. Roche has an admirable demeanor, is very fair, and very intelligent. They noted her public service as a Workers’ Compensation Commissioner for the past three years and as the chair for a year.

(12) Conclusion:

The Commission found Ms. Roche qualified, but not nominated, to serve as a Circuit Court judge.

**William K. Witherspoon**

**Circuit Court, At-Large, Seat 8**

**Commission’s Findings: QUALIFIED, BUT NOT NOMINATED**

(1) Constitutional Qualifications:

Based on the Commission’s investigation, Mr. Witherspoon meets the qualifications prescribed by law for judicial service as a Circuit Court judge.

Mr. Witherspoon was born in 1959. He is 50 years old and a resident of Columbia, South Carolina. Mr. Witherspoon provided in his application that he has been a resident of South Carolina for at least the immediate past five years and has been a licensed attorney in South Carolina since 1991.

(2) Ethical Fitness:

The Commission’s investigation did not reveal any evidence of unethical conduct by Mr. Witherspoon.

Mr. Witherspoon demonstrated an understanding of the Canons of Judicial Conduct and other ethical considerations important to judges, particularly in the areas of ex parte communications, acceptance of gifts and ordinary hospitality, and recusal.

Mr. Witherspoon reported that he has made $94.80 in campaign expenditures for postage and stationery.

Mr. Witherspoon testified he has not:

(a) sought or received the pledge of any legislator prior to screening;

(b) sought or been offered a conditional pledge of support by a legislator;

(c) asked third persons to contact members of the General Assembly prior to screening.

Mr. Witherspoon testified that he is aware of the Commission’s 48-hour rule regarding the formal and informal release of the Screening Report.

(3) Professional and Academic Ability:

The Commission found Mr. Witherspoon to be intelligent and knowledgeable. His performance on the Commission’s practice and procedure questions met expectations.

Mr. Witherspoon described his past continuing legal or judicial education during the past five years as follows:

Conference/CLE Name Date

(a) Annual Judicial Conference 08/21/06;

(b) Ethics 2000 12/13/05;

(c) Title III training January 2004;

(d) U.S. Attorney Training Retreat July 2004;

(e) Revised Lawyer’s Oath November 2004;

(f) Annual Ethics Seminar November 2004;

(g) U.S. Attorney’s Oath Seminar July 2004;

(h) U.S. Attorney’s Criminal Division Conference February 2005;

(i) International and National Security Coordinator’s Conf. June 2005;

(j) Attorney Supervisor’s Seminar July 2005;

(k) U.S. Attorney’s Office Criminal Attorneys Training September 2005;

(l) Crisis Management Coordinator’s Conference October 2005;

(m) Annual Ethics Seminar November 2005;

(n) National Security Conference January 2006;

(o) 2006 Criminal Division Update January 2006;

(p) Anti-Terrorism Advisory Council February 2006;

(q) Anti-Terrorism Prosecutors March 2006;

(r) 2006 Civil and Criminal Division June 2006;

(s) Annual Free CLE Ethics Seminar November 2006;

(t) Annual Office Training December 2006;

(u) Foreign Intelligence Training April 2007;

(v) United States Attorney’s Office Mentor Training June 2007;

(w) E-Discovery 2.0:Merging Law June 2007;

(x) Annual District Training December 2007;

(y) Evidence for Criminal Litigators February 2008;

(z) International & National Security April 2008;

(aa) Superior Direct & Cross-Examination April 2008;

(bb) United States Attorney’s Office Training September 2008;

(cc) United States Professional Training January 2009.

Mr. Witherspoon reported that he has taught the following law-related courses:

(a) I have lectured at the S.C. Bar Program ‘Bridge the Gap’ for new lawyers.

(b) I have made presentations on the topics of appellate advocacy and domestic relations to lawyers attending the Annual S.C. Bar Meeting

(c) I have taught an upper level Business Law class at Benedict College.

(d) I have taught a Trial Advocacy class at the U.S.C. School of Law.

(e) I have lectured at the S.C. Bar CLE program ‘20/20: An Optimal View of Significant Developments.’

(f) I have lectured at the Richland County Bar Association’s annual ethics seminar.

(g) I have lectured to federal paralegals on ‘Pretrial Discovery’ issues.

(h) I have lectured to federal paralegals on ‘Fifth Amendment’ issues.

(i) I have lectured to federal paralegals on ‘Witness Immunity’ issues.

(j) I have lectured to new federal employees on federal criminal procedure.

(k) I have lectured to law students on criminal conspiracy issues.

(l) I have lectured to several classes at USC on mental health issues in criminal matters.

(m) I have lectured at Narcotics Commanders School on ‘Preparing Search Warrants’ to law enforcement officers attending the school.

Mr. Witherspoon reported that he has not published any books or articles.

(4) Character:

The Commission’s investigation of Mr. Witherspoon did not reveal evidence of any founded grievances or criminal allegations made against him. The Commission’s investigation of Mr. Witherspoon did not indicate any evidence of a troubled financial status. Mr. Witherspoon has handled his financial affairs responsibly.

The Commission also noted that Mr. Witherspoon was punctual and attentive in his dealings with the Commission, and the Commission’s investigation did not reveal any problems with his diligence and industry.

(5) Reputation:

Mr. Witherspoon reported that his Martindale-Hubbell rating is AV.

(6) Physical Health:

Mr. Witherspoon appears to be physically capable of performing the duties of the office he seeks.

(7) Mental Stability:

Mr. Witherspoon appears to be mentally capable of performing the duties of the office he seeks.

(8) Experience:

Mr. Witherspoon was admitted to the South Carolina Bar in 1991.

He gave the following account of his legal experience since graduation from law school:

(a) August 1991 – July 1992

Law clerk to the Honorable Randall T. Bell, S.C. Court of Appeals.

(b) August 1992 – August 1993

Law clerk to the Honorable Matthew J. Perry, Jr.

US District Court for the District of South Carolina.

(c) September 1993 – November 1995

Berry, Dunbar, Daniel, O’Connor, Jordan & Eslinger

My practice was a general civil plaintiff’s oriented practice.

(d) November 1995 – August 1996

Law clerk to the Honorable Matthew J. Perry, Jr.

US District Court for the District of South Carolina.

(e) September 1996 – July 1998

Attorney, Berry, Adams, Quackenbush & Stuart

My practice was a general practice with both plaintiff’s and defense cases. Cases included employment matters, contract matters, criminal defense, automobile accidents and other personal injury cases.

(f) July 1998 – May 2000

Associate General Counsel, S.C. Budget &Control Board

As a member of the General Counsel’s Office, I served as legal advisor, provided legal advice and representation to different Board offices and staff. I reviewed contracts, proposed legislation and represented the Board offices in legal disputes.

(g) May 2000 – present

Senior Litigation Counsel, United States Attorney’s Office

I am involved in the prosecution of federal narcotics and firearms crimes. I have held several positions in the US Attorney’s Office including, Anti-Terrorism Coordinator, interim Violent Crimes Section chief and First Assistant.

Mr. Witherspoon further reported:

Criminal Experience: Over the last nine (9) years, my practice has been exclusively in criminal matters. I have handled cases involving violations of federal narcotics and firearms statutes, immigration laws, armed robbery matters and narcotics related murders.

Civil Experience: Over the course of my career, I have represented both plaintiffs and defendants in civil matters. My civil practice has included personal injury cases and other intentional torts. I have handled automobile accident cases, contract disputes and employment matters. In addition, I have continued to review reported civil cases from both the state and federal courts. I would continue to study the Rules of Civil Procedure and the reported civil cases to overcome any deficiency in my experience.

Mr. Witherspoon reported the frequency of his court appearances during the last five years as follows:

(a) Federal: 100%;

(b) State: 0%.

Mr. Witherspoon reported the percentage of his practice involving civil, criminal, and domestic matters during the last five years as follows:

(a) Civil: 0%;

(b) Criminal: 100%;

(c) Domestic: 0%.

Mr. Witherspoon reported the percentage of his practice in trial court during the last five years as follows:

(a) Jury: 30%;

(b) Non-jury: 70%.

Mr. Witherspoon provided that he most often served as sole counsel.

The following is Mr. Witherspoon’s account of his five most significant litigated matters:

(a) Tobias, et al. v. The Sports Club, et al., 332 S.C. 90, 504 S.E.2d 318 (1998).

I served as co-counsel in this case. This was a first party cause of action against the Defendants for serving alcohol to an intoxicated plaintiff under the theory of Christiansen v. Campbell, 328 S.E.2d 351 (Ct. App. 1985). After the jury returned a verdict for the defendants, my firm appealed on behalf of the plaintiffs. The jury verdict was upheld and the Supreme Court overruled Christiansen.

(b) United States of America v. Jorge Gonzalez-Vasquez, et al., 77

Fed.Appx.(4th Cir. (S.C.) October 20, 2003). I served as co-counsel in this case. This case was tried in federal court in March 2002. This case arose from the discovery of an organized drug smuggling and sports betting ring in the federal prison in Edgefield, South Carolina. A total of 22 defendants, including inmates and their family members, were charged. Four of the defendants went to trial and were convicted. The remaining eighteen (18) defendants pled guilty to a number of different charges. Because several of the defendants did not speak English, this case involved the use of Spanish interpreters for the defendants, the use of translated recorded prison telephone calls and the use of historical evidence of drug smuggling from other federal prisons.

(c) United States v. David Michael Woodward, et al., 430 F.3d 681 (4th Cir. 2005). I served as co-counsel in this case. This case arose out of a pain management clinic in Myrtle Beach. The clinic was dispensing powerful narcotic pain medication to its patients. We alleged that the doctors were over prescribing and illegally prescribing these medications to patients who were not in need of the medication. In some cases, the doctors did not perform any physical examination of the patients or the patients were intoxicated when they came to the clinic. Patients, allegedly in severe pain, were traveling more than three (3) hours to visit the clinic. The doctors alleged that they were in a better position to diagnose and treat the patients. After a two (2) week trial, the doctors were convicted. This case was the first of its kind in South Carolina

(d) United States v. Kenneth Reid, et al., 523 F.3d 310 (4th Cir 2008). I served as co-counsel in this case. This case arose out of an undercover drug deal in Rock Hill, South Carolina. After Mr. Reid determined who the undercover informant was, he hired another drug dealer to kill the informant. They were successful in killing the informant. The local police sought federal help in investigating and prosecution of this case. After the shooter was located in Texas and brought back to South Carolina, he then faked being mentally ill which required a mental evaluation. Only Mr. Reid went to trial. At trial, we tried Mr. Reid on a number of different charges. He was convicted of several of the charges and sentenced to life imprisonment.

(e) United States v. Thomas Ravenel, et al. I served as lead counsel in this case. This case arose as a result of cocaine usage by former State Treasurer. Both Mr. Ravenel and his co-defendant pled guilty to drug conspiracy charges.

The following is Mr. Witherspoon’s account of the civil appeals he has personally handled:

1. Walker v. South Carolina Department of Health and Environmental Control, 1998 WL 637298 (4th Cir. (S.C.) August 31, 1998);
2. Heyward v. Monroe, 1998 WL 841494 (4th Cir. (S.C.) December 7, 1998)

The following is Mr. Witherspoon’s account of five criminal appeals he has personally handled:

(a) United States v. Cash, 2008 WL 4699771 (4th Cir. (S.C.) October 27, 2008);

(b) United States v. Hallman, 2007 WL 1423758 (4th Cir. (S.C.) May 10, 2007);

1. United States v. Charley, 2006 WL 521735 (4th Cir. (S.C.) March 03, 2006);
2. United States v. Brown, 2005 WL 2248712 (4th Cir. (S.C.) September 15, 2005);

(e) United States v. Rufus, 2004 WL 2012581 (4th Cir. (S.C.) November 4, 2004).

Mr. Witherspoon further reported with respect to his holding judicial office:

“I was appointed Substitute Municipal Court judge for the City of Columbia in August 1998. I served in this position until May 2000.”

Mr. Witherspoon further reported the following regarding unsuccessful candidacies:

“I ran for the Circuit Court, At-Large Seat No. 9 in September 2002. I was found qualified but not nominated by the Judicial Merit Screening Committee. I also ran for the Circuit Court, At-Large Seat No. 9 in May 2006. I was found qualified and nominated by the Judicial Merit Screening Committee. I was not elected. I was one of five (5) finalists for a Federal Magistrate Judge position in August 2008.”

(9) Judicial Temperament:

The Commission believes that Mr. Witherspoon’s temperament would be excellent.

(10) Miscellaneous:

Mr. Witherspoon is married to Sythiner Bracey Witherspoon. He has two children.

Mr. Witherspoon reported that he was a member of the following bar associations and professional associations:

(a) South Carolina Bar

House of Delegates June 2000 - present;

(b) Richland County Bar

President January 2001 – December 2001

Executive Committee January 1996 – December 2002;

(c) Columbia Lawyers’ Association

President January 1995 – December 1997.

Mr. Witherspoon provided that he was a member of the following civic, charitable, educational, social, or fraternal organization:

Salvation Army Board of Directors.

Mr. Witherspoon further reported:

I believe that my diverse legal background would benefit me as a Circuit Court judge. I have worked as a law enforcement officer, in private practice, in public service and over the last nine (9) years, I have gain valuable courtroom experience as a federal prosecutor. I believe these experiences would be an attribute to me if I am selected as a Circuit Court judge.

I have also tried to continue my involvement in civic and professional activities in addition to practicing law. I have served on several committees and boards in the South Carolina Bar including the Board of Grievances and Discipline, CLE, Diversity, Professional Responsibility, Long Range Planning and the Nominating Committee. As a result of my bar and community service, I was awarded the Compleat Lawyer Silver Medallion by USC School of Law in 1999. The Silver Medallion is awarded to lawyers practicing less than fourteen (14) years for service to the legal profession and the community at large. The recipients of the award are chosen by the Chief Justice of the Supreme Court, the Chief Judge of the Court of Appeals, the Dean of the Law School, the Executive Director of the S.C. Bar and the President of the Law School Alumni Board.

These activities are important and beneficial to me in that they have provided an opportunity to improve both the legal profession and the community at large. I believe that it is important that judges come from varied backgrounds and perspectives. Having involvement in professional and civic activities is a way of achieving that diversity of experience and allows me to gain valuable insight into other ideas and perspectives.

**The Midlands Citizen’s Committee on Judicial Qualification found Mr. Witherspoon to be “Well-Qualified” for each of the nine evaluative criteria: constitutional qualifications, ethical fitness, professional and academic ability, character, reputation, physical health, mental stability, experience, and judicial temperament. Additionally, the Committee commented, “the committee was very impressed with Mr. Witherspoon. He is a most well-rounded candidate with vast experience in civil and criminal law. He is most eminently qualified and a most highly regarded candidate who would serve the Circuit Court and our state in a most outstanding manner.”**

(11) Commission Members’ Comments:

The Commission commented on Mr. Witherspoon’s diverse criminal and civil experience in the courtroom, which would be a great asset on the Circuit Court bench. They noted his active involvement in the state and local Bar.

(12) Conclusion:

The Commission found Mr. Witherspoon qualified, but not nominated, to serve as a Circuit Court judge.

**FAMILY COURT**

**William J. Wylie, Jr.**

**Family Court, First Judicial Circuit, Seat 2**

**Commission’s Findings: QUALIFIED AND NOMINATED**

(1) Constitutional Qualifications:

Based on the Commission’s investigation, Judge Wylie meets the qualifications prescribed by law for judicial service as a Family Court judge.

Judge Wylie was born in 1958. He is 51 years old and a resident of Summerville, South Carolina. Judge Wylie provided in his application that he has been a resident of South Carolina for at least the immediate past five years and has been a licensed attorney in South Carolina since 1985.

(2) Ethical Fitness:

The Commission’s investigation did not reveal any evidence of unethical conduct by Judge Wylie.

Judge Wylie demonstrated an understanding of the Canons of Judicial Conduct and other ethical considerations important to judges, particularly in the areas of ex parte communications, acceptance of gifts and ordinary hospitality, and recusal.

Judge Wylie reported that he has not made any campaign expenditures.

Judge Wylie testified he has not:

(a) sought or received the pledge of any legislator prior to screening;

(b) sought or been offered a conditional pledge of support by a legislator;

(c) asked third persons to contact members of the General Assembly prior to screening.

Judge Wylie testified that he is aware of the Commission’s 48-hour rule regarding the formal and informal release of the Screening Report.

(3) Professional and Academic Ability:

The Commission found Judge Wylie to be intelligent and knowledgeable. His performance on the Commission’s practice and procedure questions met expectations.

Judge Wylie described his past continuing legal or judicial education during the past five years as follows:

Conference/CLE Name Date

(a) Orientation School for New Judges 06/05/09;

(b) Family Court Judges Conference 04/22/09;

(c) S.C. Bar Family Law Section 01/23/09;

(d) S.C. Family Court Bench/Bar 12/05/08;

(e) National Judicial College Financial Statements 11/120/08;

(f) Judicial Conference 08/20/08;

(g) Orientation School for New Judges 06/04/08;

(h) Family Court Judges Conference 04/23/08;

(i) S.C. Bar Family Law Section 01/25/08;

(j) Family Court Bench/Bar 12/07/07;

(k) Annual Judicial Conference 08/22/07;

(l) Orientation School for New Judges 07/11/07;

(m) Family Court Judges Conference 04/25/07;

(n) Family Law Section 01/26/07;

(o) Family Court Bench/Bar 12/02/06;

(p) Annual Judicial Conference 08/23/06;

(q) Justice for Children Mini-Summit 08/22/06;

(r) Orientation School for New Judges 07/10/06;

(s) Domestic Violence (NJC) 05/22/06;

(t) Family Court Judges Conference 04/26/06;

(u) S.C. Bar Family Law Section 01/27/06;

(v) Family Court Bench/Bar 12/02/05;

(w) Mechanics of Family Recovery 09/16/05;

(x) Annual Judicial Conference 08/24/05;

(y) Family Court Judges Conference 04/27/05;

(z) Family Law Section 01/21/05.

Judge Wylie reported that he has taught the following law-related courses:

(a) I served as a panelist at two Probate Court Bench/Bar Conferences;

(b) I lectured on probate procedure at a Court Administration seminar for new probate judges;

(c) I spoke at a “Tips from the Bench” seminar on juvenile cases;

(d) I lectured at a Probate Bench/Bar CLE on jurisdictional conflicts between family court and probate court;

(e) I spoke at a Foster Parent Symposium on foster parent participation in abuse and neglect hearings;

(f) I lectured on judge shopping at a Charleston Bar Family Law Div. seminar;

(g) I lectured at a C.L.E. on DSS Abuse and Neglect cases;

(h) For the past three years, I have presented materials on Domestic Abuse and Pro Se Litigation at the Orientation School for New Judges.

Judge Wylie reported that he has not published any books or articles.

(4) Character:

The Commission’s investigation of Judge Wylie did not reveal evidence of any founded grievances or criminal allegations made against him. The Commission’s investigation of Judge Wylie did not indicate any evidence of a troubled financial status. Judge Wylie has handled his financial affairs responsibly.

The Commission also noted that Judge Wylie was punctual and attentive in his dealings with the Commission, and the Commission’s investigation did not reveal any problems with his diligence and industry.

(5) Reputation:

Judge Wylie reported that his last available Martindale-Hubbell rating was BV.

(6) Physical Health:

Judge Wylie appears to be physically capable of performing the duties of the office he seeks.

(7) Mental Stability:

Judge Wylie appears to be mentally capable of performing the duties of the office he seeks.

(8) Experience:

Judge Wylie was admitted to the South Carolina Bar in 1985.

He gave the following account of his legal experience since graduation from law school:

“I was a partner in the Polito and Wylie law firm from November 1985 until January 1993 when I became a probate judge. In 1998, I was elected to the family court bench. As an attorney, my primary area of practice was family law in Dorchester, Berkeley and Charleston counties. I did a significant amount of pro bono work, including representing children in abuse and neglect cases. Additionally, I handled some personal injury cases, and maintained a few small business clients for whom I performed a variety of legal services.”

Judge Wylie provided the following list of his most significant orders or opinions:

(a) Haupt v. Haupt was a divorce case in which one of the most hotly contested issues was the mother's desire to deny visitation for the father. A counselor had recommended visitation be suspended due to the strained relationship between father and children, and he had not had any visitation for over a year when the case was tried before me. The father blamed the mother, and believed she was manipulating everyone including the Court to get her way. Under the particular circumstances of this case, I ordered that neither the mother nor the children could refuse visitation, but that the father could decline any period of visitation after consulting with the children's therapist. Though cumbersome, this provision gave father some control over the visitation and ultimately contributed to his reestablishing a good relationship with his children. I believe this order is significant because it demonstrates my efforts to find creative solutions to difficult problems;

(b) McKenzie v. Lavender is an ongoing visitation case in which the Plaintiff seeks to be declared the psychological parent of the Defendant's child. The mother had cut off all contact between the child and the Plaintiff. I ordered temporary visitation with detailed restrictions to protect the child from further confusion about the identity of his father. I ruled that the psychological parent determination should not be made at a temporary hearing, but would have to be made following a trial on the merits with both parties having a full opportunity to be heard, and the child represented by a Guardian ad Litem. I believe this order is significant because it seeks to protect a child caught up in litigation between his natural mother and a person who is neither his biological father, adoptive father nor step-father, but who now has a viable cause of action to be declared the child's father under the "psychological parent doctrine";

(c) DSS v. Doe In this action for the termination of parental rights, the Defendants had plead guilty to assault and battery charges in General Sessions, but wanted a trial on the issue of whether they should be found to have committed abuse in the DSS case. The criminal charges were based upon the same incident as the abuse petition. I ruled the pleas required them to admit to conduct in the criminal case that they now wished to deny in the abuse case: the fact that they had not been tried and found guilty made no difference. I found that they had committed the abuse, and ordered their names placed in the Central Registry without further hearing. I believe this order is significant because it is not unusual for criminal defendants to enter a plea bargain rather than stand trial, but the doctrine of judicial estoppel should be raised by the Court to not allow them to avoid the consequences of their pleas when it involves the abuse of children;

(d) Lockard v. Lockard S.C. App Opinion No. 2004-UP-475. This was a divorce case in which I declined to order joint custody to a domineering father who had a history of anger problems. The parties had been exercising joint custody pursuant to a temporary order that moved the parents in and out of the marital residence every two weeks. I believe my final order is significant to the extent that I did not order joint custody merely to appease hostile parents, but made the decision that I believed was in the children's best interests;

(e) Patrick v. Britt, 613 S.E.2d 541, 364 S.C. 508 (S.C. App. 2005). This was a child support modification case in which I awarded an increase to the Plaintiff mother. Father was self-employed and claimed only $66.01 per month income, despite his business grossing over $400,000 annually. The business paid most of his personal expenses, but he insisted that the Court should use $66.01 as his income for the child support guidelines calculation. The evidence was convoluted and Defendant intentionally misled the Court about his actual income. I imputed an annual salary based upon his depreciation deductions. I believe this order is significant because it demonstrates my efforts to render a decision that was supported by the evidence even though Defendant tried to conceal his true income, and Plaintiff had no proof of his income.

(9) Judicial Temperament:

The Commission believes that Judge Wylie’s temperament has been and would continue to be excellent.

(10) Miscellaneous:

Judge Wylie is married to Carol Sides Wylie. He has three children.

Judge Wylie reported that he was a member of the following bar associations and professional associations:

(a) South Carolina Bar;

(b) South Carolina Conference of Family Court Judges.

Judge Wylie provided that he was a member of the following civic, charitable, educational, social, or fraternal organizations:

(a) Summerville Elementary School PTA;

(b) Alston Middle School PTA;

(c) Summerville High School PTA.

Mr. Wylie further reported:

I grew up in Brazil, the son of Presbyterian missionaries, where my father worked with impoverished fishermen and their families. My parent’s example of sacrificial service to others has had a tremendous impact on me. I grew up in a foreign culture where I counted the rejected of society among my friends. In college, I spent my summers as a construction laborer, farm hand, and factory worker. Throughout my life, I have been exposed to and made friends with, people from all walks of life and from diverse cultural, ethnic and social backgrounds. I believe these experiences have given me a great appreciation for the dignity and value of all human beings, and I am deeply committed to an even-handed administration of justice to the end that whether or not they agree with my decision, both the bank president and construction laborer will agree that I listened to them and they were treated fairly.

And, after nearly twelve years on the Family Court Bench, I still love this job!

**The Lowcountry Citizens Advisory Committee found Judge Wylie to be “Well-Qualified” for each of the nine evaluative criteria: constitutional qualifications, ethical fitness, professional and academic ability, character, reputation, physical health, mental stability, experience, and judicial temperament.”**

(11) Commission Members’ Comments:

The Commission commented that Judge Wylie’s enthusiasm and caring regarding his 12 years of service on the Family Court bench were evident from his presentation at the public hearing.

(12) Conclusion:

The Commission found Judge Wylie qualified and nominated him for re-election to the Family Court.

**Judge Nancy Chapman McLin**

**Family Court, First Judicial Circuit, Seat 3**

**Commission’s Findings: QUALIFIED AND NOMINATED**

(1) Constitutional Qualifications:

Based on the Commission’s investigation, Judge McLin meets the qualifications prescribed by law for judicial service as a Family Court judge.

Judge McLin was born in 1963. She is 46 years old and is a resident of Summerville, South Carolina. Judge McLin provided in her application that she has been a resident of South Carolina for at least the immediate past five years and has been a licensed attorney in South Carolina since 1988.

(2) Ethical Fitness:

The Commission’s investigation did not reveal any evidence of unethical conduct by Judge McLin.

Judge McLin demonstrated an understanding of the Canons of Judicial Conduct and other ethical considerations important to judges, particularly in the areas of ex parte communications, acceptance of gifts and ordinary hospitality, and recusal.

Judge McLin reported that she has not made any campaign expenditures.

Judge McLin testified she has not:

(a) sought or received the pledge of any legislator prior to screening;

(b) sought or been offered a conditional pledge of support by a legislator;

(c) asked third persons to contact members of the General Assembly prior to screening.

Judge McLin testified that she is aware of the Commission’s 48-hour rule regarding the formal and informal release of the Screening Report.

(3) Professional and Academic Ability:

The Commission found Judge McLin to be intelligent and knowledgeable. Her performance on the Commission’s practice and procedure questions met expectations.

Judge McLin described her past continuing legal or judicial education during the past five years as follows:

Conference/CLE Name Date

(a) 2009 Family Court Conference 4/23/09;

(b) 2008 S.C. Family Court Bench/Bar 12/05/08;

(c) 2008 Annual Judicial Conference 08/20/08;

(d) 2008 Family Court Judges’ Conference 04/23/08;

(e) 2008 S.C. Bar Conference - Family Law Section 01/25/08;

(f) 2007 Family Court Bench/Bar 12/27/07;

(g) 2007 Annual Judicial Conference 08/22/07;

(h) 2007 Family Court Judges Conference 04/25/07;

(i) 2007 S.C. Bar Conference - Family Law Section 01/25/07;

(j) 2006 Family Court Bench/Bar 12/01/06;

(k) 2006 Annual Judicial Conference 08/24/06;

(l) 2006 Family Court Judges’ Conference 04/26/06;

(m) 2006 S.C. Bar Conference - Family Law Section 01/27/06;

(n) 2005 Family Court Bench/Bar 12/02/05;

(o) 2005 Annual Judicial Conference 08/24/05;

(p) 2005 Family Court Judges’ Conference 04/27/05;

(q) 2005 S.C. Bar Conference - Family Law Section 01/21/05;

(r) 2004 Family Court Bench/Bar 12/03/04;

(s) 2004 Annual Judicial Conference 08/19/04:

(t) 2004 Family Court Judges’ Conference 08/19/04;

(u) 2004 S.C. Bar Conference - Family Law Section 01/23/04.

Judge McLin reported that she has taught the following law-related courses:

(a) I lectured at the South Carolina Bar Association CLE, Tips from the Bench III. Topic: Adoptions;

(b) I lectured at the South Carolina Bar Association LCE, Tips from the Bench II. Topic: Adoptions;

(c) I lectured at the Charleston Couty Bar Association CLE, Family Law, 11-30-01. Topic: Family Court Check Lists;

(d) I lectured at a seminar on Domestic Law in South Carolina, sponsored by the National Business Institute. The topics of the lecture included prenuptial agreements, alimony, child support, custody, equitable distribution issues and a South Carolina Law update. I assisted in the preparation of the written materials with Diane Schafer Goodstein, who was originally scheduled to lecture; however, I ultimately lectured at the seminar along with another attorney when Goodstein was unable to participate. Domestic Law in South Carolina, on or about August 25, 1992.

Judge McLin reported that she has published materials for use in the CLE courses listed above.

(4) Character:

The Commission’s investigation of Judge McLin did not reveal evidence of any founded grievances or criminal allegations made against her. The Commission’s investigation of Judge McLin did not indicate any evidence of a troubled financial status. Judge McLin has handled her financial affairs responsibly.

The Commission also noted that Judge McLin was punctual and attentive in her dealings with the Commission, and the Commission’s investigation did not reveal any problems with her diligence and industry.

(5) Reputation:

Judge McLin reported that her last available Martindale-Hubbell rating was BV.

Judge McLin reported that she has held the following public offices:

(a) President, Dorchester County Bar Association, 1994-96. Elected by the Dorchester County Bar Association;

(b) Board Member, Dorchester County Public Defender’s Corporation, 1994-96. Appointed;

(c) Panel Member, First Judicial Circuit for the Resolution of Fee Disputes,

Board of the South Carolina Bar Association, 1992-98. Appointed.

(6) Physical Health:

Judge McLin appears to be physically capable of performing the duties of the office she seeks.

(7) Mental Stability:

Judge McLin appears to be mentally capable of performing the duties of the office she seeks.

(8) Experience:

Judge McLin was admitted to the South Carolina Bar in 1988.

She gave the following account of her legal experience since graduation from law school:

(a) June 1, 1998 – Present, Family Court Judge, First Judicial Circuit, Seat 3;

(b) April/May 1998: Attorney with law firm of Rosen, Goodstein, and Hagood. I was technically an employee of Rosen, Goodstein & Hagood for approximately two (2) weeks when my previous firm of Goodstein & Goodstein merged with the firm of Rosen, Rosen & Hagood to form the new firm of Rosen, Goodstein & Hagood. During my brief employment with this firm, I was in the process of closing my law practice;

(c) 1990-98: Attorney with the firm of Goodstein & Goodstein, P.A. During my employment with Goodstein & Goodstein, I enjoyed a general law practice, including but not limited to family law, personal injury, products liability, education law, employment law, and criminal law. The majority of my practice involved domestic cases;

(d) 1988-90: Judicial Law Clerk for the Honorable William T. Howell. At the time of my employment, Judge Howell was an At-Large, Circuit Judge. He subsequently was elected as the Chief Judge for the South Carolina Court of Appeals. As Judge Howell’s law clerk, I had the following responsibilities: legal research; drafting orders; docket management; coordination of motion hearings; review of briefs, memorandums, motions and other legal pleadings; and preparation of voir dire and jury charges.

Judge McLin reported that she has held the following judicial office:

1998-present Family Court Judge, First Judicial Circuit, Seat 3.

Elected by the General Assembly. Statewide jurisdiction s provided by the South Carolina Code of Laws. The jurisdiction of the Family Court includes issues of adoption, name change, juvenile matters, divorce, equitable distribution, alimony/spousal support, custody, visitation, child support, abuse and neglect matters.

Judge McLin provided the following list of her most significant orders or opinions:

(a) Ronald Serowski v. Barbara Serowski, Opinion Number 4482, Filed January 12, 2009, South Carolina Court of Appeals. I prepared the Final Order, dated September 20, 2006, Ronald B. Serowski, Plaintiff, v. Barbara L. Serowski, Defendant, Case Number 03-DR-07-924, which was affirmed by the South Carolina Court of Appeals. A copy of the Serowski Final Order and S.C. Court of Appeals Order affirming my Final Order is attached hereto;

(b) Christa Nicole Clark, Plaintiff, v. Cory A. Smithers, Defendant, Final Order dated August 30, 2008. I prepared this Final Order;

(c) James Ronald Corn, Plaintiff, v. Sandy B. Edwards, Defendant*,* Case Number 05-DR-18-250, Final Order, dated February 29, 2008. I prepared this Final Order;

(d) Deborah Perez, Plaintiff, v. Joel Perez-Nunez, Defendant*,* Case Number 02-DR-18-1403, Final Order dated October 25, 2005. I prepared this Final Order;

(e) South Carolina Department of Social Services, Plaintiff, v. Charlese Brown, et al, Defendants*,* Case Number 08-DR-38-1135, Order dated February 10, 2009.

(9) Judicial Temperament:

The Commission believes that Judge McLin’s temperament has been and would continue to be excellent.

(10) Miscellaneous:

Judge McLin is married to Ray E. McLin, Jr. She has one child.

Judge McLin reported that she was a member of the following bar associations and professional associations:

(a) S.C. Bar Association;

(b) South Carolina Conference of Family Court Judges.

Judge McLin provided that she was a member of the following civic, charitable, educational, social, or fraternal organizations:

“I am a member of the South Carolina Conference of Family Court Judges and the South Carolina Bar Association. I have also attended Bethany United Methodist Church although I may still be considered a member of Mt. Hebron United Methodist Church.”

Judge McLin further reported:

“It has been a great honor to serve the State of South Carolina as a Family Court Judge. I have enjoyed serving as a Family Court Judge.”

**The Lowcountry Citizens Committee found Judge McLin “Well-Qualified” for each of the nine evaluative criteria: constitutional qualifications, ethical fitness, professional and academic ability, character, reputation, physical health, mental stability, experience, and judicial temperament.**

(11) Commission Members’ Comments:

The Commission commented that Judge McLin has been a valuable jurist to the Family Court system for the past eleven years.

(12) Conclusion:

The Commission found Judge McLin qualified and nominated her for re-election to the Family Court.

**Dennis M. Gmerek**

**Family Court, Second Judicial Circuit, Seat 1**

**Commission’s Findings: QUALIFIED AND NOMINATED**

(1) Constitutional Qualifications:

Based on the Commission’s investigation, Mr. Gmerek meets the qualifications prescribed by law for judicial service as a Family Court judge.

Mr. Gmerek was born in 1960. He is 49 years old and a resident of Aiken, South Carolina. Mr. Gmerek provided in his application that he has been a resident of South Carolina for at least the immediate past five years and has been a licensed attorney in South Carolina since 1985.

(2) Ethical Fitness:

The Commission’s investigation did not reveal any evidence of unethical conduct by Mr. Gmerek.

Mr. Gmerek demonstrated an understanding of the Canons of Judicial Conduct and other ethical considerations important to judges, particularly in the areas of ex parte communications, acceptance of gifts and ordinary hospitality, and recusal.

Mr. Gmerek reported that he has not made any campaign expenditures.

Mr. Gmerek testified he has not:

(a) sought or received the pledge of any legislator prior to screening;

(b) sought or been offered a conditional pledge of support by a legislator;

(c) asked third persons to contact members of the General Assembly prior to screening.

Mr. Gmerek testified that he is aware of the Commission’s 48-hour rule regarding the formal and informal release of the Screening Report.

(3) Professional and Academic Ability:

The Commission found Mr. Gmerek to be intelligent and knowledgeable. His performance on the Commission’s practice and procedure questions met expectations.

Mr. Gmerek described his past continuing legal or judicial education during the past five years as follows:

Conference/CLE Name Date

(a) Revised Lawyer’s Oath CLE August 20, 2004;

(b) SCDSS-OGC Seminar September 17, 2004;

(c) 11th Annual SCPSAC Colloquium February 24 & 25, 2005;

(d) SCDSS-OGC Seminar May 20, 2005;

(e) 12th Annual SCPSAC Colloquium April 06 & 07, 2006;

(f) Mini Summit on Justice for Children August 22, 2006;

(g) SCDSS CLE Seminar December 08, 2006;

(h) 2007 SCPSAC Colloquium April 12, 2007;

(i) SCDSS-OGC Seminar September 07, 2007;

(j) 2008 SCPSAC Colloquium April 17 & 18, 2008;

(k) CCFSCSW CLE Seminar December 12, 2008;

(l) SCDSS-OCG CLE Seminar February 27, 2009.

Mr. Gmerek reported that he has taught the following law-related courses:

(a) I participated at both the 2006 & 2007 SCPSAC Conference in mock trials;

(b) I have presented at some of the OCG CLE seminars on the following topics: (1) annual case law summary (2) appellate procedures (3);

(c) I have presented at the 10th annual Children’s Law Conference on the coordination of child protection and criminal child abuse proceedings. I presented this same topic to the annual meeting of the South Carolina Foster Care Review Board meeting;

(d) I participated in Law School for Non-Lawyers in Aiken County;

(e) I have participated in the training of volunteers for the South Carolina Guardian ad Litem Program for Aiken County;

(f) I have participated in the training of volunteers for the Cumbee Center to Assist Abused Persons.

Mr. Gmerek reported that he has not published any books or articles.

(4) Character:

The Commission’s investigation of Mr. Gmerek did not reveal evidence of any founded grievances or criminal allegations made against him. The Commission’s investigation of Mr. Gmerek did not indicate any evidence of a troubled financial status. Mr. Gmerek has handled his financial affairs responsibly.

The Commission also noted that Mr. Gmerek was punctual and attentive in his dealings with the Commission, and the Commission’s investigation did not reveal any problems with his diligence and industry.

(5) Reputation:

Mr. Gmerek reported that he is not rated by Martindale-Hubbell.

Mr. Gmerek reported that he has held the following public office:

“I have been a member of the Aiken County Planning Commission since 2000. This is an appointed position. This position is not required to file a report with the State Ethics Commission.”

(6) Physical Health:

Mr. Gmerek appears to be physically capable of performing the duties of the office he seeks.

(7) Mental Stability:

Mr. Gmerek appears to be mentally capable of performing the duties of the office he seeks.

(8) Experience:

Mr. Gmerek was admitted to the South Carolina Bar in 1985.

He gave the following account of his legal experience since graduation from law school:

(a) 1985 to August 1986. I was employed as the first full time staff attorney for the Richland County Attorney’s Office;

(b) August 1986 to July 1998. I was employed with the law firm of Bell & Surasky, P.A. in Langley, South Carolina. During this time period I was the assistant county attorney concentrating primarily in planning and zoning law along with assisting in researching and opinion writing on requests for opinions by the County Council. My assistant county attorney duties probably occupied 25% of my time. The rest of my practice consisted mostly of family court proceedings and probate court proceedings. I was consistently appointed guardian ad Litem in custody cases in the Aiken County area. In 1990, I was made a partner in the firm and the firm’s name changed to Bell, Surasky & Gmerek, P.A.;

(c) July 1998 to present. I was, and am currently, a full time employee of the Aiken County Department of Social Services presenting child abuse and adult protective services cases in the Aiken County Family Court. In 2005, I was made circuit coordinator of legal services in the Second Judicial Circuit for the Department of Social Services and handle cases in all three counties in the circuit.

Mr. Gmerek further reported:

Since I have been a full time employee of the Department of Social Services prosecuting child abuse/adult protective service case since 1998, I am fully experience in this area of Family Court practice area. I work closely with the Department of Juvenile Justice and the Solicitor’s Office on those cases in which there are common individuals.

Prior to 1998, my private practice was almost exclusively dealing with family issues, either in the Family Court or Probate Court. I litigated numerous divorce, equitable distribution and child custody cases. I was appointed in numerous custody cases as the guardian ad Litem and participated in numerous trials in that capacity. I have tried and defended contested step-parent adoptions. In private practice, I was also appointed to represent a number of defendants in DSS cases.

Mr. Gmerek reported the frequency of his court appearances during the past five years as follows:

(a) federal: 0%;

(b) state: 100%.

Mr. Gmerek reported the percentage of his practice involving civil, criminal, and domestic matters during the past five years as follows:

(a) civil: 0%;

(b) criminal: 0%;

(c) domestic: 100%.

Mr. Gmerek reported the percentage of his practice in trial court during the past five years as follows:

(a) jury: 0%;

(b) non-jury: 100%.

Mr. Gmerek provided that he most often served as sole counsel.

The following is Mr. Gmerek’s account of his five most significant litigated matters:

(a) Zabawa vs. Phipps, 96-DR-02-975/98-DR-02-1903. I was retained by a mother, Ms. Zabawa, to regain custody of her children back from her mother. This was an extremely litigious case involving grandparents who absolutely refused to acknowledge their daughter’s rehabilitation.

DUE TO CONFEDENTIALLITY, INITIALS FOR THE DEFENDANT WILL BE USED FOR THE BELOW CASES.

(b) SCDSS vs. T.W., 04-DR-02-1648. This was a contested physical abuse case involving immersion burns on a minor child.

(c) SCDSS vs. T.D., 98-DR-02-1916. This was the first case I handled which involved a classic case of Munchausen’s Syndrome by Proxy. In order to prove this case, it was required to obtain a great deal of medical records and be able to present them to the Court in a logical and concise manner.

(d) SCDSS vs. T.E., 06-DR-02-1569, 2008-UP-288 – This was a sexual abuse case which initially was prosecuted by SCDSS a couple of years before but, because the victim child recanted, the first case was voluntarily dismissed without prejudice due to inability of the agency to meet its burden of proof. During the second case, it was necessary to present evidence on why children recant allegations of sexual abuse.

(e) SCDSS vs. G.B, 02-DR-02-653, 2007-UP-044 – This was a termination of parental rights case which was tried over a three day period. It involved a father who, while complying with his treatment plan, was still involved with the mother who was not complying with her treatment plan. The children were removed from the mother, not the father. A great deal of testimony needed to be presented as to why the terminations of the father’s rights were in the children best interest.

The following is Mr. Gmerek’s account of five civil appeals he has personally handled:

(a) Heath vs. County of Aiken, 295 S.C. 416 (1988) – Co-counsel along with the County Attorney, Robert M. Bell, but I drafted the briefs and handled the oral argument;

(b) Wade vs. Brooks, 306 S.C. 553 (Ct. App., 1992);

(c) Miles vs. Miles, 312 S.C. 408 (1994);

(d) SCDSS vs. Ledford, 357 S.C. 371 (Ct. App., 2004);

(e) SCDSS vs. Scott, 380 S.C. 140 (Ct. App., 2008).

Mr. Gmarek reported that he has not personally handled any criminal appeals.

(9) Judicial Temperament:

The Commission believes that Mr. Gmerek’s temperament would be excellent.

(10) Miscellaneous:

Mr. Gmerek is not married. He does not have any children.

Mr. Gmerek reported that he was a member of the following bar associations and professional associations:

(a) South Carolina Bar Associations 1985 to present.

I was the Young Lawyer Representative for the 2nd Judicial Circuit in 1990-91;

(b) Aiken Bar Association 1986 to present.

I was the Vice President for the County Bar Association in 2003 and President in 2004;

(c) South Carolina Professional Association on the Abuse of Children (State Chapter of the American Professional Association on the Abuse of Children) 2004 to Present;

I received the Legal Award of this organization in 2004. I was on the board of directors from 2005 to 2009. I was the seminar program chair 06-07 and the president of the association 07-08.

Mr. Gmerek provided that he was a member of the following civic, charitable, educational, social, or fraternal organizations:

(a) Cumbee Center to Assist Abused Person, Inc. – 2006 to present Board of Directors. Treasurer 2007 to present;

(b) Knights of Columbus member;

(c) Alumni Association – College of Charleston.

**The Midlands Citizens Committee found Mr. Gmerek “Well-Qualified” for each of the nine evaluative criteria: constitutional qualifications, ethical fitness, professional and academic ability, character, reputation, physical health, mental stability, experience, and judicial temperament. They also reported the following in summary regarding Mr. Gmerek: “The committee was very impressed by Mr. Gmerek. We were very impressed by his humility and his obvious commitment to public service. We believe he is most eminently qualified to be a Family Court Judge.”**

(11) Commission Members’ Comments:

The Commission commented on Mr. Gmerek’s dedicated public service and stated that he also would be an excellent choice for the Family Court bench. They noted that he should be commended on maintaining his integrity and work ethic.

(12) Conclusion:

The Commission found Mr. Gmerek qualified and nominated him for election to the Family Court.

**Vicki Johnson Snelgrove**

**Family Court, Second Judicial Circuit, Seat 1**

**Commission’s Findings: QUALIFIED AND NOMINATED**

(1) Constitutional Qualifications:

Based on the Commission’s investigation, Ms. Snelgrove meets the qualifications prescribed by law for judicial service as a Family Court judge.

Ms. Snelgrove was born in 1957. She is 52 years old and a resident of Aiken, South Carolina. Ms. Snelgrove provided in her application that she has been a resident of South Carolina for at least the immediate past five years and has been a licensed attorney in South Carolina since 1982.

(2) Ethical Fitness:

The Commission’s investigation did not reveal any evidence of unethical conduct by Ms. Snelgrove.

Ms. Snelgrove demonstrated an understanding of the Canons of Judicial Conduct and other ethical considerations important to judges, particularly in the areas of ex parte communications, acceptance of gifts and ordinary hospitality, and recusal.

Ms. Snelgrove reported that she has made $52.35 in campaign expenditures for postage and name tags. She commented that her cost for long distance calls is not known.

Ms. Snelgrove testified she has not:

(a) sought or received the pledge of any legislator prior to screening;

(b) sought or been offered a conditional pledge of support by a legislator;

(c) asked third persons to contact members of the General Assembly prior to screening, except to make introductions.

Ms. Snelgrove testified that she is aware of the Commission’s 48-hour rule regarding the formal and informal release of the Screening Report.

(3) Professional and Academic Ability:

The Commission found Ms. Snelgrove to be intelligent and knowledgeable. Her performance on the Commission’s practice and procedure questions met expectations.

Ms. Snelgrove described her past continuing legal or judicial education during the past five years as follows:

Conference/CLE Name Date

(a) Family Law Section

Meeting of S.C. Bar Convention 1/23/04; 1/27/06; 1/23/07; 1/23/08;

(b) Family Law Intensive Workshop-

Use of Psychologists in Family Court 4/24/04;

(c) South Carolina Trial Lawyers Association- 8/5/04;

Family Court Seminar and Ethics Seminar 8/4/05; 8/3/06; 8/2/07;

(d) SCAJ- Annual Convention- 8/7/08;

Family Court Seminar and Ethics Seminar

(e) 60 Tips to Build a Successful Practice 4/22/05;

(f) Hot Tips Seminar- Family Court 9/23/05; 9/22/06; 3/23/07; 9/14/08;

(g) Children’s Issues in Family Court 3/17/06; 3/23/08;

(h) Family Law Intensive Workshop-

Complete Tax and Financial issues in Family Court 11/2/06;

(i) Family Law Intensive Workshop-

Improving Your Family Law Practice 11/21/08;

(j) SideBar, S.C. Live- Significant Family Law Cases 2/20/09.

Ms. Snelgrove reported that she has taught the following law-related courses:

(a) I have taught at Family Law Hot Tips seminars on at least nine (9) occasions; the topics have ranged from ideas on making a domestic practice more efficient to putting a client to work and maximizing work while minimizing the attorney’s fees;

(b) I have presented at The South Carolina Trial Lawyers Association convention- Family Law Section on at least seven (7) different occasions; these were case law updates on the various issues in Family Court (alimony, child support, etc.);

(c) I have presented at a local county bar seminar on the UCCJEA v. UCCJA. I repeated this same information on a radio talk show;

(d) I have presented at the S.C. Bar Convention in January and coordinated that same program;

(e) I have presented at other S.C. Bar CLE programs- Sidebar in 2008 and an Ethics seminar in 1998.

Ms. Snelgrove reported that she has published the following:

(a) Family Law Toolkit (S.C. Bar C.L.E. 2003 and new edition yet to be published) Contributing Author;

(b) Marriage and Divorce Law in South Carolina *A Layperson’s Guide* (S.C. Bar C.L.E. 1st Edition) Editorial Board.

(4) Character:

The Commission’s investigation of Ms. Snelgrove did not reveal evidence of any founded grievances of concern or criminal allegations made against her. The Commission’s investigation of Ms. Snelgrove did not indicate any evidence of a troubled financial status. Ms. Snelgrove has handled her financial affairs responsibly.

The Commission also noted that Ms. Snelgrove was punctual and attentive in her dealings with the Commission, and the Commission’s investigation did not reveal any problems with her diligence and industry.

(5) Reputation:

Ms. Snelgrove reported that her Martindale-Hubbell rating is AV.

(6) Physical Health:

Ms. Snelgrove appears to be physically capable of performing the duties of the office she seeks.

(7) Mental Stability:

Ms. Snelgrove appears to be mentally capable of performing the duties of the office she seeks.

(8) Experience:

Ms. Snelgrove was admitted to the South Carolina Bar in 1982.

She gave the following account of her legal experience since graduation from law school:

(a) Johnson, Johnson, Maxwell, Whittle and Snelgrove, Attorneys P.A.

1982-89;

(b) Johnson, Johnson, Maxwell, Whittle, Snelgrove and Weeks, Attorneys P.A., 1989-92;

(c) Johnson, Johnson, Whittle, Snelgrove and Weeks, Attorneys P.A.

1992-95;

(d) Johnson, Johnson, Whittle and Snelgrove, Attorneys P.A., 1995- 2009.

Ms. Snelgrove further reported:

Divorce and Equitable Division: I have represented parties in divorce and equitable division cases since 1982. These cases have included marital estates that had a negative value (debts exceeded assets) and marital estates that had a value in excess of twenty-four million dollars. I have represented parties in contested and uncontested divorces on all fault grounds, proven and disproven common law marriages. I have prepared simple Separation Agreements and prepared complex Separation Agreements. I have had more than Two Thousand Five Hundred (2,500) court appearances. I have worked with CPA’s and CVA’s on business valuation cases;

Child Custody: I have represented fathers, mothers, grandparents, other relatives and friends in custody cases and trials. I have served as a Guardian ad Litem in hundreds of cases. I have negotiated settlement in custody cases for sole custody, joint custody, split custody and shared custody. I have used psychologists and other mental health professionals and have a good understanding of the roles that mental health professionals play in custody cases. I have done my best to be creative in finding solutions to acrimonious custody cases. I strive to keep children as insulated as possible from these cases. I have represented parties in grandparent visitation cases and been able to prevail so that they could see a grandchild that they had not seen in many years. I have represented a family unrelated to a child whom they had met through church so that they could provide this child the most stable home he had ever known;

Adoption: I have represented parties in hundreds of adoptions cases, contested and uncontested. I have served as Guardian in many adoption cases, some of which involved the Interstate Compact. I have represented parents making the choice to have their child/children placed for adoption. I have counseled with couples having to give up a child that had been placed with them for adoption. I have represented couples making the choice to adopt a special needs child;

Abuse and Neglect: I have served as a Guardian ad Litem, attorney for the Guardian ad Litem and attorney for parents and other accused perpetrators involved in dependency actions with the South Carolina Department of Social Services. I have proven abuse in private action cases. I have attended Foster Care Review Board Hearings. I have attended seminars on the use of professionals in abuse and neglect cases, both from the prosecution side and the defense side;

Juvenile Justice: Early in my practice, I represented several juveniles involved in the Family Court. I have limited my practice to exclude criminal cases, but stay abreast of all published cases and often converse with my law partner, who practices exclusively criminal defense work.

Ms. Snelgrove reported the frequency of her court appearances during the last five years as follows:

(a) federal: 0;

(b) state: Total 536- average 107 per year (2004-2008).

Ms. Snelgrove reported the percentage of her practice involving civil, criminal, and domestic matters during the last five years as follows:

(a) civil: 1% PCR appointments;

(b) criminal: 0%;

(c) domestic: 99%.

Ms. Snelgrove reported the percentage of her practice in trial court during the last five years as follows:

(a) jury: 0%;

(b) non-jury: 100%.

Ms. Snelgrove provided that she most often served “as Chief Counsel in 98% [of the cases].”

The following is Ms. Snelgrove’s account of her five most significant litigated matters:

(a) Ganzi v. Ganzi - 01-DR-02-2090

Total Marital Estate $24,000,000; various pieces of real property; Personal property in excess of $1,000,000.00. This case was set for 4 weeks to try. We tried it for approximately 5 days. We were able to discover in the middle of trial some extremely relevant falsehoods that the Husband had either told or information that he had intentionally withheld. There were 5 CPA’s involved in representing the parties and assisting the attorneys. I sat as co-counsel in that case. I was in charge of the majority of the Wife’s case in chief and had to prepare her for trial. Our client had had a closed head injury and was very difficult to keep focused;

(b) Davis v. Davis - 97-DR-02-2227

I handled the case at the trial level. This case mainly involved custody of a small child and possible relocation. We did not succeed at trial, but prevailed in the Court of Appeals. The Supreme Court granted certioriari and reversed our short lived success. It was one of the first cases dealing with the statute on relocation with the state;

(c) Russell v. Cox - 08-DR-02-421; Opinion No. 4535 (Ct. App.)

This was one of the first cases in South Carolina under the Uniform Child Custody Jurisdiction and Enforcement Act. Even though neither parent was actually living in the issuing state, we were able to convince the trial court and the Court of Appeals that Georgia was still the proper state to hear any modification action;

(d) Roe v. Roe - 429 S. E. 2d 830 (S. C. App. 1993)

Equitable division was the primary issue in this case. It involved an older couple (retired) creating a second career. There were substantial problems with locating financial information that the Wife kept very guarded. In fact, we never felt we got all of the documents on her financial misconduct. We were able to show to the court that even though it had been a long term marriage, that an equal division would not be equitable to the Husband, as the Wife had wasted substantial savings and destroyed what was once a sizeable marital estate;

(e) Campbell v. Campbell - 95-DR-02-286

We had over thirty-two (32) pieces of real estate, some of which were clearly marital, some clearly non-marital, some that had been transmuted, custody of a young child, adultery, alimony and attorneys fees. We introduced over one hundred (100) exhibits in this case just on behalf of the Wife. This case covered most every issue in a Family Court case. We were satisfied with the lower court’s ruling. However, the Husband was not. We were able to convince the Court of Appeals that the Family Court had listened carefully and made the correct decisions.

The following is Ms. Snelgrove’s account of five civil appeals she has personally handled:

(a) Campbell v. Campbell-10/10/00; Unpublished Opinion No. 2000-UP-609; Court of Appeals;

(b) Russell v. Cox - 4/27/09; Opinion No. 4535; Court of Appeals;

(c) Roberson v. Roberson –1/31/05; Unpublished Opinion No. 2005-UP-074; Court of Appeals;

(d) Robinson v. Robinson –3/15/05; Unpublished Opinion No. 2005-UP-193; Court of Appeals;

(e) Roe v. Roe- 4/12/93; 429 S. E. 2d 830 (S. C. App. 1993); Court of Appeals.

Ms. Snelgrove reported that she has not personally handled any criminal appeals.

(9) Judicial Temperament:

The Commission believes that Ms. Snelgrove’s temperament would be excellent.

(10) Miscellaneous:

Ms. Snelgrove is married to Von Pope Snelgrove. She has two children.

Ms. Snelgrove reported that she was a member of the following bar associations and professional associations:

(a) S.C. Bar Family Law Section Council- on council for 7-8 years. I have held every officer position in that organization, including Chair in 2007-08;

(b) ABA- Family Law Section; member;

(c) S.C. Bar Family Law Taskforce- 2003-04; served as a member; chaired by Judge Rucker and Judge Leslie Riddle;

(d) S.C. Women’s Law Association- since 2009; member;

(e) S.C. Association for Justice (f/k/a S.C. Trial Lawyers Association); Chair of Family Law Section Mid-1990’s; member since 1984.

Ms. Snelgrove provided that she was a member of the following civic, charitable, educational, social, or fraternal organizations:

(a) Social Concerns Committee St. Paul Lutheran Church;

(b) Global Mission;

(c) University of South Carolina in Aiken- Men’s and Women’s Basketball team stewardship;

(d) Haiti mission trip;

(e) Volunteer- American Cancer Society- Aiken Chapter- fundraising;

(f) Fundraiser for Hitchcock Rehabilitation Center 1999-2006.

Ms. Snelgrove further reported:

I have devoted my practice to making the Family Court experience better. The parties in this court do not see it as an easy fix to a bad decision. It is a very difficult and arduous path. I believe that each case is very important and deserving of my time and attention. I consistently look for ways to improve the lives of my clients. I have been asked to sit in on the Family Court Judges Advisory Committee meetings on rule changes. I sat on the S.C. Bar Family Law Taskforce in efforts “to alleviate the misery of Family Court”. I keep up with new law. I actually like the practice of Family Court law and the people that practice Family Court law. They are dedicated to their clients who are the adults and children of this state.

I have been married to my husband for 27 years and have reared two daughters, Beverly who is 25 (who is a student at the Charleston School of Law) and Leigh who is 20 and a student at Wofford College. Though the Aiken County Bar does not have a formal Family Law Section, I have been the informal head regarding questions and rules regarding Family Law cases.

I have served various leadership roles within the South Carolina Bar and South Carolina Trial Lawyers. This has been an addition to leadership roles that I have had within my church. I am very self disciplined and keep abreast of cases that can affect the practice of Family Law. This is not limited to Family Law Cases. There are many evidentiary rulings in Criminal Cases and other Civil Cases that are applicable to trials in Family Law Cases. I am in the process of preparing a presentation targeting younger lawyers on trying Family Court Cases.

**The Midlands Citizen’s Committee on Judicial Qualification found Ms. Snelgrove “Well-Qualified” for each of the nine evaluative criteria: constitutional qualifications, ethical fitness, professional and academic ability, character, reputation, physical health, mental stability, experience, and judicial temperament. The Committee provided the following summary statement: “The committee was very impressed by Mrs. Snellgrove[sic] in every respect. With 25 years of experience as a family law attorney, we believe she is very eminently qualified to be a judge on the Family Court.”**

(11) Commission Members’ Comments:

The Commission commented that Ms. Snelgrove is also an excellent candidate for the Family Court bench. In particular, they noted her broad range of experiences in Family Court and her people-oriented view, which will assist her as a jurist.

(12) Conclusion:

The Commission found Ms. Snelgrove qualified and nominated her for election to the Family Court.

**George Marion McFaddin, Jr.**

**Family Court, Third Judicial Circuit, Seat 1**

**Commission’s Findings: QUALIFIED AND NOMINATED**

(1) Constitutional Qualifications:

Based on the Commission’s investigation, Judge McFaddin meets the qualifications prescribed by law for judicial service as a Family Court judge.

Judge McFaddin was born in 1954. He is 55 years old and a resident of Gable, South Carolina. Judge McFaddin provided in his application that he has been a resident of South Carolina for at least the immediate past five years and has been a licensed attorney in South Carolina since 1985.

(2) Ethical Fitness:

The Commission’s investigation did not reveal any evidence of unethical conduct by Judge McFaddin.

Judge McFaddin demonstrated an understanding of the Canons of Judicial Conduct and other ethical considerations important to judges, particularly in the areas of ex parte communications, acceptance of gifts and ordinary hospitality, and recusal.

Judge McFaddin reported that he has made $18.71 in campaign expenditures for a notebook and a stamp.

Judge McFaddin testified he has not:

(a) sought or received the pledge of any legislator prior to screening;

(b) sought or been offered a conditional pledge of support by a legislator;

(c) asked third persons to contact members of the General Assembly prior to screening.

Judge McFaddin testified that he is aware of the Commission’s 48-hour rule regarding the formal and informal release of the Screening Report.

(3) Professional and Academic Ability:

The Commission found Judge McFaddin to be intelligent and knowledgeable. His performance on the Commission’s practice and procedure questions met expectations.

Judge McFaddin described his past continuing legal or judicial education during the past five years as follows:

Conference/CLE Name Date

(a) Family Court Conference 4/23/09;

(b) S.C. Bar Convention-Family Law 1/23/09;

(c) Family Law Procedure 12/17/08;

(d) Family Law Bench/Bar 12/05/08;

(e) Judicial Discipline Committee Seminar 10/21/08;

(f) Judicial Conference 8/20/08;

(g) Family Court Conference 4/23/08;

(h) Children’s Issues In Family Court 3/28/08;

(i) S.C. Bar Convention-Family Law 1/25/08;

(j) Family Court Bench/Bar 12/07/07;

(k) Family Law “Hot Tips” 9/07;

(l) Judicial Conference 8/22/07;

(m) Family Court Conference 4/25/07;

(n) Chief Judges Seminar 2/15/07;

(o) S.C. Bar Convention-Family Law 1/26/07;

(p) Family Court Procedure 12/14/06;

(q) Family Court Bench/Bar 12/1/06;

(r) Judicial College (week long CLE) 9/24/06;

(s) Judicial Conference 8/23/06;

(t) Justice For Children 8/22/06;

(u) Family Court Conference 4/26/06;

(v) S.C. Bar Convention-Family Law 1/27/06;

(w) Family Court Bench/Bar\* 12/05;

(x) Judicial Conference\* 8/05;

(y) Family Court Conference\* 4/05;

(z) S.C. Bar Convention-Family Law\* 1/05.

\*I obtained my CLE records from the CLE Division of the Supreme Court; however, 2005 records were not included. The 2005 information I provided above is accurate as to CLEs I attended but not as to precise dates. The months and year of 2005 are correct.

(aa) Horry County Bar CLE 12/08/04;

(bb) Family Law Hot Tips 9/24/04;

(cc) Judicial Oath of Office 8/19/04;

(dd) Judicial Conference 8/19/049;

(ee) Family Court Conference 4/24/04;

(ff) S.C. Bar Convention-Family Law 1/23/04.

Judge McFaddin reported that he has taught the following law-related courses:

(a) During the early 1990s I taught paralegal courses at Sumter TEC to include personal injury law, family law, and trusts and estates;

(b) In 2002 I presented at a CLE on family law;

(c) In 2003 I presented at a local CLE in Horry County on family law.

Judge McFaddin reported that he has not published any books or articles.

(4) Character:

The Commission’s investigation of Judge McFaddin did not reveal evidence of any founded grievances or criminal allegations made against him. The Commission’s investigation of Judge McFaddin did not indicate any evidence of a troubled financial status. Judge McFaddin has handled his financial affairs responsibly.

The Commission also noted that Judge McFaddin was punctual and attentive in his dealings with the Commission, and the Commission’s investigation did not reveal any problems with his diligence and industry.

(5) Reputation:

Judge McFaddin reported that his last available Martindale-Hubbell rating was BV.

(6) Physical Health:

Judge McFaddin appears to be physically capable of performing the duties of the office he seeks.

(7) Mental Stability:

Judge McFaddin appears to be mentally capable of performing the duties of the office he seeks.

(8) Experience:

Judge McFaddin was admitted to the South Carolina Bar in 1985.

He gave the following account of his legal experience since graduation from law school:

(a) 1985 law school graduation to August 1986: Served as a law clerk to the Hon. Rodney A. Peeples;

(b) August 1986 to late 1987: Associate with Sumter law firm of Bryan, Bahnmuller, King, Goldman & McElveen. Personal injury and family law, some criminal;

(c) Fall 1987 to mid 1988: Associate with Sumter John E. Miles. Family law with some personal injury;

(d) Mid 1988 to August 1990: Associate with Sumter firm of Atkinson & Davis. Family law and some personal injury;

(e) August 1990 to August 1998: Opened sole practice in Sumter. Family law, personal injury law, criminal law. Also served as part-time general sessions public defender from 1990-91. From 1992-94 served as part-time county prosecutor. From 1994-98 served also as part-time juvenile public defender;

(f) 1998-2002 served as chief magistrate of Sumter County on a full-time basis.

Judge McFaddin reported that he has held the following judicial offices:

“From August 1998 to July 2002 I served as full-time chief magistrate for Sumter County. I was recommended by the S.C. Senate and appointed by the governor. Currently, I have been serving as a family court judge since July 2002. I am seeking re-election.”

Judge McFaddin provided the following list of his most significant orders or opinions:

(a) Gainey v. Gainey (Ct. App. #4515, published);

(b) SCDSS v. Mother (Ct. App. #4294, published);

(c) Lewis v. Lewis (Ct. App. #2008-UP-645);

(d) State v. Avery (Ct. App. #4299, published)\*;

(e) SCDSS v. Doe (Ct. App. #2006-UP-077).

\*In this opinion my ruling regarding waiver of a juvenile to adult General Sessions Court is included.

Judge McFaddin reported the following regarding his employment while serving as a judge:

“As a full-time magistrate I did not hold any other job. As a family court judge I have not held any other jobs.”

(9) Judicial Temperament:

The Commission believes that Judge McFaddin’s temperament has been and would continue to be excellent.

(10) Miscellaneous:

Judge McFaddin is married to Cindy Johnston McFaddin. He has two children.

Judge McFaddin reported that he was a member of the following bar associations and professional associations:

(a) S.C. Bar as a member since 1985;

(b) American Bar Association in 1985-8;

(c) S.C. Trial Lawyers Association, 1990 to 1998.

Judge McFaddin provided that he was a member of the following civic, charitable, educational, social, or fraternal organizations:

“I have been only a church member where I attend church. I have served as an elder and clerk of session. I served as a volunteer firefighter/EMT for 29 years until 2003."

Judge McFaddin further reported:

I was raised in and still live in a rural community where both races live and work and know each other. My community includes the well-to-do financially, the poor, the middle class, and the land-rich but money-poor. I learned early on that all of us want the same for ourselves and our children. I believe that all people are basically good and I give all the benefit of that assumption until they show me otherwise.

I worked my way through college, graduate school and law school. Work was a good “teacher” in that I learned to be organized, punctual, and respectful of authority.

I am mindful that while many who see my robe think I am all powerful I realize that power has its limits and the foolish use of power is wrong. Although Atticus Finch was not a judge, I strive to carry his integrity and demeanor into the courtroom with me.

While I have learned a lot as a lawyer and a judge, I well know there is a lot I do not know. Going to work each day is like going to school each day. I learn something new at least weekly.

I am very blessed to have a good job.

**The Pee-Dee Citizens Committee found Judge McFaddin “Well-Qualified” for each of the nine evaluative criteria: constitutional qualifications, ethical fitness, professional and academic ability, character, reputation, physical health, mental stability, experience, and judicial temperament. They also noted with respect to reputation that Judge McFadden is “known in the community as an honest, caring judge who diligently tries to do what is in the best interests of the parties before him.**

(11) Commission Members’ Comments:

The Commission commented on the exceptional comments made regarding Judge McFaddin by the Pee Dee Citizens Committee and his exemplary service on the Family Court for the past seven years.

(12) Conclusion:

The Commission found Judge McFaddin qualified and nominated him for re-election to the Family Court.

**Judge Roger E. Henderson**

**Family Court, Fourth Judicial Circuit, Seat 1**

**Commission’s Findings: QUALIFIED AND NOMINATED**

(1) Constitutional Qualifications:

Based on the Commission’s investigation, Judge Henderson meets the qualifications prescribed by law for judicial service as a Family Court judge.

Judge Henderson was born in 1949. He is 60 years old and a resident of Chesterfield, South Carolina. Judge Henderson provided in his application that he has been a resident of South Carolina for at least the immediate past five years and has been a licensed attorney in South Carolina since 1978.

(2) Ethical Fitness:

The Commission’s investigation did not reveal any evidence of unethical conduct by Judge Henderson.

One affidavit was filed in opposition to Judge Henderson’s candidacy by Terry R. Housley. The complaint arose out of a divorce action in which Judge Henderson served as the presiding judge. In his affidavit, Mr. Housley complained that Judge Henderson: 1) issued court orders that were irreversibly riddled with fundamental legal errors; 2) did not uniformly comply with the rule of law; 3) did not have a full understanding of the case or demonstrate a compassionate effort to achieve a fair and balanced outcome; 4) was grossly negligent with a breach of professional ethics and a breach of fiduciary duties; and 5) abused his discretion.

Judge Henderson responded that “[t]he Court of Appeals reviewed this matter upon Mr. Housely’s appeal of my decision and after reviewing the entire and complete record of the proceedings they affirmed my decision and found no abuse of discretion on my part. The Court properly made two modifications, one requiring the wife to return any items included within the antiques of which she had taken possession and the Court secondly modified the amount of the Edward Jones account because two numbers were transposed.”

The Commission carefully considered Mr. Housely’s complaint, but found the complaint was without merit. In reaching this conclusion, the Commission noted the South Carolina Court of Appeals decision and the Commission found that Judge Henderson handled the case appropriately.

Judge Henderson demonstrated an understanding of the Canons of Judicial Conduct and other ethical considerations important to judges, particularly in the areas of ex parte communications, acceptance of gifts and ordinary hospitality, and recusal.

Judge Henderson reported that he has not made any campaign expenditures.

Judge Henderson testified he has not:

(a) sought or received the pledge of any legislator prior to screening;

(b) sought or been offered a conditional pledge of support by a legislator;

(c) asked third persons to contact members of the General Assembly prior to screening.

Judge Henderson testified that he is aware of the Commission’s 48-hour rule regarding the formal and informal release of the Screening Report.

(3) Professional and Academic Ability:

The Commission found Judge Henderson to be intelligent and knowledgeable. His performance on the Commission’s practice and procedure questions met expectations.

Judge Henderson described his past continuing legal or judicial education during the past five years as follows:

Conference/CLE Name Date

(a) Family Law Mid-Year Meeting 01/24/2003;

(b) Family Court Judge's Conference 04/30/2003;

(c) Annual Judicial Conference 08/21/2003;

(d) Family Law Section Meeting – S.C. Bar Convention 01/23/2004;

(e) 31st National Conf. on Juvenile Justice 03/28-31/2004;

(f) Family Court Judge's Conference 04/28/2004;

(g) Annual Judicial Conference 08/19/2004;

(h) Judicial Oath of Office 08/19/2004;

(i) Seminar for Chief Judges 12/10/2004;

(j) Orientation School for New Judges 07/12/2004;

(k) Juvenile Drug Court Training 01/11-14/2005;

(l) Family Law Section Meeting – S.C. Bar Convention 01/21/2005;

(m) Fundamentals of Juvenile Drug Court Training 04/19-22/2005;

(n) 2005 Family Court Judge's Conference 04/27/2005;

(o) 2005 Orientation School for New Judge 07/13/2005;

(p) 2005 Annual Judicial Conference 08/24/2005;

(q) Juvenile Drug Court Training 09/20-23/2005;

(r) South Carolina Family Court Bench 12/02/2005;

(s) Family Law Section S.C. Bar Convention 01/27/2006;

(t) Family Court Judge's Conference 04/26/2006;

(u) Planning Your Juvenile Drug Court Training 08/07-11/2006;

(v) Mini-Summit on Justice for Children 08/22/2006;

(w) 2006 Annual Judicial Conference 08/23/2006;

(x) Family Court Bench/Bar 12/01/2006;

(y) Family Law Section – S.C. Bar Convention 01/26/2007;

(z) 2007 Annual Judicial Conference 08/22/2007;

(aa) Family Court Bench/Bar 12/07/2007;

(bb) Family Court Judge's Conference 04/23/2008;

(cc) S.C. Association for Justice Convention 08/07/2008;

(dd) Annual Judicial Conference 08/20/2008;

(ee) Family Court Bench Bar 12/05/2008;

(ff) Family Law Section - S.C. Bar Convention0 1/23/2009;

(gg) Family Court Judge's Conference 04/22/2009.

Judge Henderson reported that he has taught the following law-related courses:

(a) I lectured at a CLE seminar on October 21, 1994, on the subject of jury selections as part of the "Successful Civil Litigation; Hot Tips from the Experts" program.

(b) I lectured at the 1997 Conference of Chief Judges for Administrative Purposes and the 1997 Annual Judicial Conference on the subjects of Civil and Criminal Contempt and Courtroom Security.

(c) I was a co-presenter of the Family Law Update at the 2000 Annual Judicial Conference.

(d) I was a co-lecturer at the 2000 Orientation School for New Family Court Judges, concerning the areas of Court Rules, Alimony and Equitable Division.

(e) I lectured on new issues in Family Court at the 2001 Family Court Judge's Conference.

(f) I was co-lecturer at the 2001 Orientation School for New Family Court Judges, concerning the areas of Court Rules, Alimony and Equitable Division.

(g) I was co-lecturer at the 2002 Orientation School for New Family Court Judges, concerning the areas of Pendent Lite, Domestic Abuse cases, and Pro se litigants.

(h) I was co-lecturer at the 2004 Orientation School for new Family Court Judges concerning Temporary Hearings & Equitable Distribution.

(i) I was a panel member at the 2004 South Carolina Bar Convention concerning Conversations Between the Bench and Bar.

(j) I was co-lecturer at the 2004 Seminar for Chief Judges for Administrative Purposes of the Circuit and Family Courts concerning Pre-Trial Status Settlement conferences.

Judge Henderson reported that he has not published any books or articles.

(4) Character:

The Commission’s investigation of Judge Henderson did not reveal evidence of any founded grievances or criminal allegations made against him. The Commission’s investigation of Judge Henderson did not indicate any evidence of a troubled financial status. Judge Henderson has handled his financial affairs responsibly.

The Commission also noted that Judge Henderson was punctual and attentive in his dealings with the Commission, and the Commission’s investigation did not reveal any problems with his diligence and industry.

(5) Reputation:

Judge Henderson reported that his last available Martindale-Hubbell rating was AV.

Judge Henderson reported the following military service:

May 1971 - May 1977, United States Army Reserves,

Specialist Fourth Class, XXX-XX-XXXX, Honorable Discharge.

Judge Henderson reported that he has held the following public office:

(a) October 29, 1979 - January 23, 1984, Chairman, Chesterfield County Election Commission - appointed;

(b) June 27, 1986 - July 23, 1993, Member, South Carolina Commission on Higher Education - appointed;

(c) April 6, 1995 - May 25, 1995, Member, Chesterfield County District Board of Education, - elected.

(6) Physical Health:

Judge Henderson appears to be physically capable of performing the duties of the office he seeks.

(7) Mental Stability:

Judge Henderson appears to be mentally capable of performing the duties of the office he seeks.

(8) Experience:

Judge Henderson was admitted to the South Carolina Bar in 1978.

He gave the following account of his legal experience since graduation from law school:

“In 1978, I returned to Chesterfield and began the general practice of law with my father-in-law, the late Edward McIver Leppard. He retired in 1982, and I continued a solo general practice until 1985, when I formed a partnership with William O. Spencer, Jr. We continued a general practice of law until I was elected to the bench in May of 1995. During this period of time, we added an associate, Mary Thomas Johnson, in May of 1983. In 1985, I began to concentrate my practice in the areas of Family Law, Criminal Law and Personal Injury.”

Judge Henderson reported that he has not personally handled any civil or criminal appeals.

Judge Henderson reported that he has held the following judicial offices:

(a) 1978-82 Assistant Recorder and Recorder for the Town of Chesterfield, appointed by the Mayor. This Court handled all traffic and criminal offenses in which the punishment did not exceed 30 days or a $200.00 fine.

(b) July 1, 1995 to Present - Family Court Judge for the Fourth Judicial Circuit, Seat No. 1, Elected by the South Carolina General Assembly. Statewide jurisdiction to hear all domestic relations matters.

Judge Henderson provided the following list of his most significant orders or opinions:

(a) 95-DR-16-0712 - Leslie Douglas Stewart vs. Susan Fellows Van Epps;

(b) 97-DR-42-1170 - Charles Tyrone Courtney vs. Carol Lynn W. Courtney;

(c) 03-DR-16-0593 - Karen Allen-Hines vs. Franklin Hines- Unpublished Opinion No. 2008-UP-198;

(d) 05-DR-34-340 - Ronald H. Stanton vs. Tracy P. Stanton;

(e) 07-DR-16-0487 - Alice Ball Fitzwater vs. Lloyd A. Fitzwater.

Judge Henderson further reported the following regarding an unsuccessful candidacy:

“In the fall of 2008, I applied for At-Large Circuit Seat No. 6. I was found to be qualified but not reported out by the Screening Commission.”

(9) Judicial Temperament:

The Commission believes that Judge Henderson’s temperament has been and would continue to be excellent.

(10) Miscellaneous:

Judge Henderson is married to Sarah Jane Leppard Henderson. He has three children.

Judge Henderson reported that he was a member of the following bar associations and professional associations:

1. Chesterfield County Bar Association;
2. South Carolina Bar;
3. South Carolina Conference of Family Court Judges, Treasurer - August 2001- August 2002. Vice President - August 2002-August 2003, President, August 2003-August 2004.

Judge Henderson provided that he was a member of the following civic, charitable, educational, social, or fraternal organizations:

1. American Legion Post Number 74;
2. Chesterfield High School Athletic Booster Club;
3. Chesterfield Touchdown Club;

(d) Chesterfield Marlboro Technical College Hall of Fame.

Judge Henderson further reported:

I grew up in a family with two brothers and both parents, and I now have my own family of two daughters, one son and two grandchildren. My parents were married for 60 years, and I have been married for over 34 years. Therefore, I have experienced a lot of the ups and downs that affect most families. When dealing with litigants before me, I draw on my personal experiences when considering how children feel about their parents, how parents feel about their children and how a husband and wife feel about one another when dealing with the various issues that affect every family.

After graduating from college, I had several different experiences that I have fallen back on when dealing with those who appear before me. I spent six years in the Army Reserves so I can relate to those who appear before me who are in the National Guard or Reserves or who are on active duty. I realize that their schedules and responsibilities must be considered when making certain decisions. After completing my active duty for the Reserves, I worked for a publishing company as an hourly employee. This experience has enabled me to relate to those who struggle on a meager income to make ends meet.

I left the publishing company job to take a job in textiles (Burlington Industries) for two years as a salaried employee. This experience helps me to relate to those who work in factories or for “big business”. I had to depend on unemployment compensation for a while, and had to supplement my income by substitute teaching. I can relate to those who appear before me who have lost jobs and are doing all they can to make ends meet. I also use this experience when considering those before me who don’t make attempts at gainful employment. My experience while substitute teaching has given me a perspective of young people that I might not have otherwise had. It has allowed me to see how teachers feel in certain situations.

Four years after graduating from college, I entered law school. Upon graduation from law school, I practiced law for seventeen years before being elected to the bench. Having practiced law for seventeen years, I saw a lot of different situations and different types of people that I think about and sometimes reflect back on when making certain decisions.

Finally, I have spent about twenty years coaching youth baseball and football teams. Because of this experience, I know how a lot of juveniles from all walks of life think and what is important to them as well as their parents. Also, I know how they are affected by various situations.

My life experiences have made me realize that there is no one solution for all problems. I realize that every case is different, just as all people are different and all situations are different. Every case I deal with must be dealt with individually and the law applied in accordance with the unique facts found in each individual case.

**The Pee Dee Citizen’s Committee on Judicial Qualification found Judge Henderson to be “Well-Qualified” for each of the nine evaluative criteria: constitutional qualifications, ethical fitness, professional and academic ability, character, reputation, physical health, mental stability, experience, and judicial temperament. With respect to his reputation, the Committee noted that Judge Henderson “has a very good reputation in the community.”**

(11) Commission Members’ Comments:

The Commission commented that Judge Henderson is known as one of the most highly regarded Family Court judges in this state.

(12) Conclusion:

The Commission found Judge Henderson qualified and nominated him for re-election to the Family Court.

**Dorothy Mobley Jones**

**Family Court, Fifth Judicial Circuit, Seat 1**

**Commission’s Findings: QUALIFIED AND NOMINATED**

(1) Constitutional Qualifications:

Based on the Commission’s investigation, Judge Jones meets the qualifications prescribed by law for judicial service as a Family Court judge.

Judge Jones was born in 1952. She is 57 years old and a resident of Columbia , South Carolina. Judge Jones provided in her application that she has been a resident of South Carolina for at least the immediate past five years and has been a licensed attorney in South Carolina since 1978.

(2) Ethical Fitness:

The Commission’s investigation did not reveal any evidence of unethical conduct by Judge Jones.

Judge Jones demonstrated an understanding of the Canons of Judicial Conduct and other ethical considerations important to judges, particularly in the areas of ex parte communications, acceptance of gifts and ordinary hospitality, and recusal.

Judge Jones reported that she has not made any campaign expenditures.

Judge Jones testified she has not:

(a) sought or received the pledge of any legislator prior to screening;

(b) sought or been offered a conditional pledge of support by a legislator;

(c) asked third persons to contact members of the General Assembly prior to screening.

Judge Jones testified that she is aware of the Commission’s 48-hour rule regarding the formal and informal release of the Screening Report.

(3) Professional and Academic Ability:

The Commission found Judge Jones to be intelligent and knowledgeable. Her performance on the Commission’s practice and procedure questions met expectations.

Judge Jones described her past continuing legal or judicial education during the past five years as follows:

Conference/CLE Name Date

(a) Orientation School for New Family Court Judges 07/11/05;

(b) Annual Judicial Conference 08/24/05;

(c) Hot Tips for Family Law Practitioners 09/23/05;

(d) Family law Section at S.C. Bar Convention 01/27/06;

(e) Family Court Judge’s Conference 04/26/06;

(f) Mini Summit on Justice for Children 08/22/06;

(g) Annual Judicial Conference 08/23/06;

(h) Hot Tips for Family Law Practitioners 09/22/06;

(i) Family Court Bench/Bar Year End 12/01/06;

(j) Family law Section at S.C. Bar Convention 01/26/07;

(k) Seminar for Chief Administrative Judges 02/15/07;

(l) Children’s Issues in Family Court 03/24/07;

(m) Family Court Bench/Bar Year End 12/07/07;

(n) Family Law Section at S.C. Bar Convention 01/25/08;

(o) Children’s Issues in Family Court, speaker 03/20/08;

(p) Family Law Update 01/23/09;

(q) Family Court Judicial Conference 04/22/09;

(r) SCAJ Convention 08/06/09.

Judge Jones reported that she has taught the following law-related courses:

(a) I planned and moderated the S.C. Bar Program entitled “Bench/Bar Year End CLE” held December 7, 2008;

(b) I presented on the topic of children’s issues at the S.C. Bar Program entitled “Children’s Issues in Family Court” held on March 20, 2009;

(c) I [was] a guest speaker at the Family Law CLE held in September 2009, on the topic on “Post Trial Motions”;

(d) I plan[ned] and moderat[ed] the S.C. Bar Program entitled “Bench/Bar Year End” CLE to be held on December 5, 2009.

Judge Jones reported that she has not published any books or articles.

(4) Character:

The Commission’s investigation of Judge Jones did not reveal evidence of any founded grievances or criminal allegations made against her. The Commission’s investigation of Judge Jones did not indicate any evidence of a troubled financial status. Judge Jones has handled her financial affairs responsibly.

The Commission also noted that Judge Jones was punctual and attentive in her dealings with the Commission, and the Commission’s investigation did not reveal any problems with her diligence and industry.

(5) Reputation:

Judge Jones reported that she was listed in 2004 in Martindale-Hubbell without rating, but received recognition in Best Lawyers in America, 2005.

(6) Physical Health:

Judge Jones appears to be physically capable of performing the duties of the office she seeks.

(7) Mental Stability:

Judge Jones appears to be mentally capable of performing the duties of the office she seeks.

(8) Experience:

Judge Jones was admitted to the South Carolina Bar in 1978.

She gave the following account of her legal experience since graduation from law school:

From 1993 – February 2005, I was in practice with Lester and Jones, with our primary office located at 1716 Main Street, Columbia, S.C. 29201, practicing only in the area of family law. I was elected to serve on the family court bench in March 2005. Upon graduation from law school in 1978, I held the following positions:

(a) Judicial law clerk to Hon. Rodney A. Peeples, August 1978- November 1979; During my employment, I assisted Judge Peeples with jury and non jury dockets; contacted attorneys for pre-trial conferences and trial appearances; researched legal issues and reviewed legal briefs submitted by attorneys; prepared Orders and jury charges and participated in law clerk seminars.

(b) Yarborough, Fallon and Mobley, in Florence, S.C., November 1979 – 82; engaged in a general practice including civil and criminal practice, domestic, probate, Workers Compensation, unemployment hearings and magistrate court cases. Despite a general practice, I developed a strong interest in family law, to include adoptions, divorce, custody litigation, termination of parental rights and juvenile matters.

(c) Baker, Purvis and Mobley, in Darlington, S.C., 1982 – 84; specialized in medical malpractice and products liability cases; also was actively involved in family law and tort practice.

(d) Harvey L. Golden, P.A., in Columbia, S.C., 1984 – January 1987; Specialized in family law, with an emphasis on complex marital litigation involving closely held corporations and division of medical practices and other professional businesses. Return to Columbia was based upon the death of my father and need to be closer to my aging mother.

(e) Hearn and Corbett, in Myrtle Beach, S.C. January 1987 – 89; this firm merged into Van Osdell, Lester, Hearn, Britton and Martin. Relocation to Myrtle Beach was based upon marriage to Ronald K. Jones of Myrtle Beach. I primarily engaged in sophisticated matrimonial litigation and contested custody cases.

(f) Dorothy Mobley Jones,1990 –93, in Myrtle Beach, S.C., later merged with Lester and Jones, where I remained until February 2005 when elected to the Family Court bench. These years of practice were dedicated solely to the practice of family law. Our office was based in Columbia, S.C. with satellite offices in Myrtle Beach and Beaufort, S.C.

Judge Jones reported that she has held the following judicial office:

“Family Court, Fifth Judicial Circuit, Seat 1, February 2005 – present.

Judge Jones provided the following list of her most significant orders or opinions:

(a) Crawford v. Crawford, 04-DR-40-3419, Final Decree of Divorce;

(b) Cannon v. Cannon, 04-DR-42-804, Final Decree of Divorce;

(c) Butler v. Butler, 02-DR-40-2027, Final Decree of Divorce;

(d) Tidd v. Tidd, 03-DR-42-4163, Final Decree of Divorce;

(e) Hoover v. Hoover, 09-DR-40-1777, Temporary Order.

(9) Judicial Temperament:

The Commission believes that Judge Jones’s temperament has been and would continue to be excellent.

(10) Miscellaneous:

Judge Jones is not married. She has one child.

Judge Jones reported that she was a member of the following bar associations and professional associations:

(a) South Carolina Bar Association- past chair of the Family Law Executive Committee;

(b) Richland County Bar Association.

Judge Jones provided that she was not a member of any civic, charitable, educational, social, or fraternal organizations.

Judge Jones further reported:

While serving as a family court judge, I have been asked to sit on the following cases on other courts:

(a) State v. Danny Orlando Wharton; S.C. Supreme Court; December 3, 2008;

(b) State v. Rorey Jamar Johnson; S.C. Supreme Court; November 14, 2007;

(c) Joseph H. Moore, M. N. Weinberg, Jr, and Weinberg and Brown LLP, S.C. Supreme Court; May 27, 2009;

(d) Auto-Owners v. Rhodes; S. C. Court of Appeals, June 10, 2009.

While serving as a family court judge, I have been appointed to serve on the Commission for the Profession and on the Children’s Task Force committees.

As a practicing attorney, I served on the following committees:

(a) S.C. Bar Joint Commission on ADR/Family Court;

(b) S.C. Bar Judicial Qualifications Committee;

(c) S.C. Bar Committee on Specialization of Family Law;

(d) S.C. Bar Long Range Planning Committee;

(e) S.C. Bar Amicus Curie Committee;

(f) S.C. Bar Pro Bono Program;

(g) S.C. Family Law Executive Committee.

As a practicing attorney, I lectured, moderated and/or coordinated approximately 28 CLE Seminars related to family law, starting in 1988 and continuing through 2003. These are listed in my application filed in 2005.

As a family court judge, I have continued to lecture, moderate and plan CLE Seminars related to family law.

For two consecutive years, I served as Chief Administrative Judge for Richland County, Fifth Judicial Circuit, and approximately one year for Kershaw County.

**The Midlands Citizens Committee found Judge Dorothy Mobley Jones “Well-Qualified” for each of the nine evaluative criteria: constitutional qualifications, ethical fitness, professional and academic ability, character, reputation, physical health, mental stability, experience, and judicial temperament. They also found, “Judge Jones is an outstanding and wonderful asset to our state judiciary. We were honored to interview her and believe she is very eminently qualified to continue her outstanding service to our state as a Family Court Judge.”**

(11) Commission Members’ Comments:

The Commission commended Judge Jones’s dedicated efforts on the Commission for the Profession and the Children’s Tast Force and noted her able service for the past four years on the Family Court.

(12) Conclusion:

The Commission found Judge Jones qualified and nominated her for election to the Family Court.

**DeAndrea Gist Benjamin**

**Family Court, Fifth Judicial Circuit, Seat 4**

**Commission’s Findings: QUALIFIED AND NOMINATED**

(1) Constitutional Qualifications:

Based on the Commission’s investigation, Judge Benjamin meets the qualifications prescribed by law for judicial service as a Family Court judge.

Judge Benjamin was born in 1972. She is 37 years old and a resident of Columbia, South Carolina. Judge Benjamin provided in her application that she has been a resident of South Carolina for at least the immediate past five years and has been a licensed attorney in South Carolina since 1997.

(2) Ethical Fitness:

The Commission’s investigation did not reveal any evidence of unethical conduct by Judge Benjamin.

Judge Benjamin demonstrated an understanding of the Canons of Judicial Conduct and other ethical considerations important to judges, particularly in the areas of ex parte communications, acceptance of gifts and ordinary hospitality, and recusal.

Judge Benjamin reported that she has not made any campaign expenditures.

Judge Benjamin testified she has not:

(a) sought or received the pledge of any legislator prior to screening;

(b) sought or been offered a conditional pledge of support by a legislator;

(c) asked third persons to contact members of the General Assembly prior to screening.

Judge Benjamin testified that she is aware of the Commission’s 48-hour rule regarding the formal and informal release of the Screening Report.

(3) Professional and Academic Ability:

The Commission found Judge Benjamin to be intelligent and knowledgeable. Her performance on the Commission’s practice and procedure questions met expectations.

Judge Benjamin described her past continuing legal or judicial education during the past five years as follows:

Conference/CLE Name Date

(a) Ethics 2008 July 14, 2009;

(b) 24th Annual Criminal Law Update I & II January 23, 2009;

(c) S.C. Black Lawyers Annual Conference October 30, 2008;

(d) Ethics 2007 July 14, 2008;

(e) CDV: Law Enforcement Response October 10, 2008;

(f) A Day in Discovery Part 2 January 26, 2008;

(g) 23rd Annual Criminal Law Update I & II January 25, 2008;

(h) STOP Domestic Violence July 19, 2007;

(i) Ethical Considerations in Criminal Cases June 29, 2007;

(j) 22nd Annual Criminal Law Update I & II January 26, 2007;

(k) S.C. Bar Young Lawyers Division CLE January 28, 2007;

(l) S.C. Black Lawyers Retreat September 28, 2006;

(m) STOP Domestic Violence September 21, 2006;

(n) 21st Annual Criminal Law Update I & II January 27, 2006;

(o) Orientation School for Municipal Judges July 25, 2005;

(p) S.C. Black Lawyers Retreat October 2004;

(q) ABA Young Lawyers Division Meeting August 5, 2004;

(r ) Electronic Courtroom March 24, 2004;

(s) 19th Annual Criminal Law Updates January 23, 2004.

Judge Benjamin reported that she has taught the following law-related courses:

(a) While employed at the Attorney General’s Office, I assisted in training Summary Court Judges Criminal Domestic Violence classes. (1999- 2001)

1. S.C. Black Lawyers Association – Family Law Panel Discussion (Fall 2008)
2. I have also presented to the Young Lawyers Division Section at the Division’s Conferences in the past.

Judge Benjamin reported that she has published the following:

*Why Doesn’t She Leave? The Psychology of a Domestic Violence Victim*. The American Bar Association Affiliate Newsletter, Volume 26 Number 2, Nov/Dec 2000.

(4) Character:

The Commission’s investigation of Judge Benjamin did not reveal evidence of any founded grievances or criminal allegations made against her. The Commission’s investigation of Judge Benjamin did not indicate any evidence of a troubled financial status. Judge Benjamin has handled her financial affairs responsibly.

The Commission also noted that Judge Benjamin was punctual and attentive in her dealings with the Commission, and the Commission’s investigation did not reveal any problems with her diligence and industry.

(5) Reputation:

Judge Benjamin reported the following regarding her rating in Martindale-Hubbell: “I do not have a Martindale-Hubbell rating. I have never applied for a rating.”

Judge Benjamin reported that she has held the following public office:

“I served on the Juvenile Parole Board from July 2001 – June 2004. I was appointed by Governor James H. Hodges, Jr. I timely complied with State Ethics reports.”

(6) Physical Health:

Judge Benjamin appears to be physically capable of performing the duties of the office she seeks.

(7) Mental Stability:

Judge Benjamin appears to be mentally capable of performing the duties of the office she seeks.

(8) Experience:

Judge Benjamin was admitted to the South Carolina Bar in 1997.

She gave the following account of her legal experience since graduation from law school:

(a) South Carolina Judicial Department, Judicial Law Clerk, The Honorable L. Casey Manning. (August 1997 – August 1998).

(b) Fifth Circuit Solicitor’s Office, Assistant Solicitor, Juvenile/Family Court Division. (August 1998 – November 1999) – I prosecuted felonies and misdemeanors involving juvenile offenders. I also served on the local Juvenile Drug Court.

(c) South Carolina Attorney General’s Office, Assistant Attorney General (November 1999- July 2001). I was assigned to the prosecution division where I prosecuted cases involving violent acts against women and children, sexual assault offenses, elder abuse cases, and civil commitments under the Sexually Violent Predator (SVP) law.

(d) South Carolina Juvenile Parole Board, Member and Vice Chair (July 2001 – June 2004). I was a member of a ten-member board that presided over the retention and release of juveniles from the South Carolina Department of Juvenile Justice. I served as Vice-Chair from July 2002-June 2003.

(e) Gist Law Firm, Partner (July 2001 – present). I am a partner in my family law firm. I handle all of the family court cases in our office. My family law practice includes marital litigation, child custody disputes, child support cases, DSS abuse and neglect cases, adoptions, and representation of juveniles in family court. My practice also includes Employment Law, Criminal law, and some Personal Injury work. I have also been appointed in the past to serve as a Guardian ad Litem in DSS cases and in child custody disputes.

(f) City of Columbia Municipal Court, Municipal Judge (July 2004 – present). Presides over the municipal courts for the City of Columbia. I handle misdemeanor criminal and traffic offenses, specialized Criminal Domestic Violence court and Quality of Life court. I preside over a term of Jury Trials every six weeks.

Judge Benjamin further reported:

Divorce and Equitable Division of Property - My divorce litigation experience expands from simple divorces to divorces in long-term marriages. I have handled a significant amount of property distribution cases to include cases that deal with the division of personal assets, real and personal property and retirement accounts to include military retirement accounts.

Child Custody – I have handled child custody cases that are a part of marital litigation and independent of marital litigation. I am currently handling a child custody dispute where my client has filed for custody of his fifteen year old incorrigible child. I have also represented a former professional athlete in an extensive child custody and child support dispute.

Adoptions – My adoption experience has been limited to DSS adoptions. I enjoy doing adoptions, particularly DSS adoptions of hard to place children. The most significant adoptions that I have handled have been the adoption of a physically and mentally disabled little boy (2-3 years old) and the adoption of an emotionally disabled little girl who had spent the first 4-5 of her life in DSS custody and foster care. I also recently handled the adoption of a 12-year old little boy to a loving family.

# Abuse and Neglect Cases- My most significant work with abuse and neglect cases was during law school when I was selected as a University of Michigan/WG Kellogg Child Welfare Fellow. As a part of my fellowship I worked in the S.C. Department of Social Services General Counsel’s Office as a law clerk. My primary responsibility was to draft termination of parental rights pleadings and documents for court to assist in the elimination of South Carolina’s termination parental rights backlog. I have also handled a limited amount of abuse and neglect cases in my private practice. I have also been appointed as a Guardian ad Litem in abuse and neglect cases.

Juvenile Justice – I have handled cases for both the State and juveniles charged with criminal offenses. As a prosecutor, I have handled detention hearings, juvenile trials, juvenile truancy cases, and I was part of the Juvenile Drug Court team. In my current practice, I defend juveniles charged with juvenile offenses. I also served as a member of the Juvenile Justice Parole Board from 2001-04. I was elected by the board as Vice-Chair from 2002-03.

Judge Benjamin reported the frequency of her court appearances as follows:

(a) federal: A part of my private practice is employment law. I currently have five pending Civil Federal Court cases.

(b) state: I appear in the Family Courts weekly, Court of Common Pleas bi-monthly, and I handle approximately 5-6 criminal cases a year in my private practice and I exclusively handle criminal matters as a Municipal Judge. I have limited my criminal private practice due to potential conflicts with my Municipal Judgeship and City of Columbia criminal cases.

Judge Benjamin reported the percentage of her practice involving civil, criminal, and domestic matters as follows:

(a) civil: 35%;

(b) criminal: 10% of my private practice, 100% of my Municipal Court work is criminal;

(c) domestic: 55% of my private practice is domestic.

Judge Benjamin reported the percentage of her practice in trial court as follows:

(a) Jury: 35%;

(b) Non-jury: 65%.

Judge Benjamin provided that, “My law partner and I work together during Federal Court trials. I solely handle my family law trials and civil trials.”

The following is Judge Benjamin’s account of her five most significant litigated matters:

(a) Staley v. Brown – This was a family court child support/child custody case that was tried in Richland County. The issues in the case dealt with child support outside the guidelines and custody of an incorrigible child. My client ultimately prevailed in a case where the custodial parent was seeking an increase in support and a significant amount of attorney’s fees and cost.

(b) Vinson vs. DSS – I represented a foster family in a termination of parental rights case and adoption case. This case was significant because I was able to help get a special needs child who would not ordinarily be adoptable adopted by a loving and caring family.

(c) Weston v. Margaret J. Weston Medical Center – This was a contract dispute between my client and his former employer. It was significant because my client was a trailblazing doctor who was wronged by his employer. The jury returned a verdict in my client’s favor. The case was appealed to the S.C. Court of Appeals and S.C. Supreme Court where both courts upheld the jury’s verdict.

(d) In the Matter of The Care and Treatment of Billy Ray Tucker – I tried this case in Aiken County not long after the Sexually Violent Predator Law was enacted. This case was one of the first cases that was tried and won under the Sexually Violent Predator Law.

(e) McKinney vs. Richland County Sheriff’s Department (431 F.3d 415, 4th Cir. 2005) – This was a civil action in the Federal District Court of South Carolina. My client was successful at the District level and the Defendant appealed the case to the Fourth Circuit Court Of Appeals. Although the case was not decided in my clients favor, it afforded me the opportunity to appear before the Fourth Circuit Court of Appeals in Richmond, Virginia.”

The following is Judge Benjamin’s account of the civil appeal she has personally handled:

McKinney vs. Richland County Sheriff’s Department, 431 F.3d 415 (4th Cir. 2005)

Judge Benjamin reported that she has not personally handled any criminal appeals.

Judge Benjamin reported that she has held the following judicial office:

“I am a City of Columbia Municipal Judge. I was appointed in July of 2004.“

Judge Benjamin provided the following list of her most significant orders or opinions:

“As a Municipal Judge I handle traffic court, criminal court (misdemeanors), criminal Domestic Violence court and quality of life court. These cases do not usually warrant judicial opinions and orders other than form orders.”

Judge Benjamin reported the following regarding her employment while serving as a judge:

“My current employment with the Gist Law Firm. I have been affiliated with the firm since July 2001 to present. I currently serve in the role of managing partner.”

(9) Judicial Temperament:

The Commission believes that Judge Benjamin’s temperament would be excellent.

(10) Miscellaneous:

Judge Benjamin is married to Stephen K. Benjamin. She has two children.

Judge Benjamin reported that she was a member of the following bar associations and professional associations:

(a) South Carolina Bar Board of Governors - 2007-09;

1. South Carolina Bar, Chair, Young Lawyers Division – 2006–07;
2. South Carolina Bar, House of Delegates – 2002-09;
3. South Carolina Bar, Young Lawyers Division, Fifth Circuit Representative 2001-03;
4. American Bar Association, Young Lawyers Division, District Representative – 2003-05;
5. American Bar Assn., Minorities in the Profession Scholar–1998-99;
6. Women Lawyers Association;
7. South Carolina Black Lawyers Association;
8. Columbia Lawyers Association;
9. Appleseed Legal Justice Center, Board Member.

Judge Benjamin provided that she was a member of the following civic, charitable, educational, social, or fraternal organizations:

(a) Edventure Children’s Museum;

(b) Congaree Girls Scouts;

(c) Appleseed Legal Justice Center Board;

(d) St. John Preparatory School Board;

(e) Columbia Alumnae Chapter of Delta Sigma Theta;

(f) USC Community Advisory Board.

Judge Benjamin further noted:

My interest in Family Law goes back to my childhood. For 13 years my mother worked as a Child Protective Services Social Worker with the South Carolina Department of Social Services. I can remember not understanding my mother being called out in the middle of the night to assist the police with children who were being removed from their families and homes because of abuse and neglect. I know now that she was taking children into emergency protective custody for their safety and welfare.

During law school I was selected by the University of Michigan and W.G. Kellogg Foundation as a Child Welfare Fellow. I attended a training session at the University of Michigan in Ann Arbor focused on child welfare law. Following my training in Michigan, I clerked/interned for the Honorable William Byars, at the time a Fifth Circuit Family Court Judge for the summer. I also worked at the Department of Social Services in the General Counsel office handling the then huge backlog of termination of parental rights cases in South Carolina. The following year I clerked in the Fifth Circuit Solicitor’s office in the Juvenile Division. I was later hired as an Assistant Solicitor, assigned to the Juvenile Division.

The most remarkable part of my work with the Solicitors office was Juvenile Drug Court. We worked with juveniles who at a young age had become addicted to illicit drugs. It gave me an opportunity to work with families and children in improving their lives and getting their lives back on track. The court actually gave me a chance to see the court system having a positive effect on the lives of young people and their families.

I have always had a strong interest in Family Law and Children’s issues. My vast amount of experience in all areas of family law speaks to my commitment to this area of the law.

**The Midlands Citizen’s Committee on Judicial Qualification found Judge Benjamin to be “Well-Qualified” for each of the nine evaluative criteria: constitutional qualifications, ethical fitness, professional and academic ability, character, reputation, physical health, mental stability, experience, and judicial temperament. They also found that “Mrs. Benjamin is both an eminently qualified and a most highly regarded candidate. The committee states that they are “confident that she would make an outstanding judge on the Family Court.**

(11) Commission Members’ Comments:

The Commission commented that Judge Benjamin was very articulate at the Public Hearing, and that her experience in private practice and as a municipal Court judge would transfer well to the Family Court. The Commission noted that Judge Benjamin’s good temperament and compassion would serve her well on the bench.

(12) Conclusion:

The Commission found Judge Benjamin qualified and nominated her for election to the Family Court.

**Stevens B. Elliott**

**Family Court, Fifth Judicial Circuit, Seat 4**

**Commission’s Findings: QUALIFIED AND NOMINATED**

(1) Constitutional Qualifications:

Based on the Commission’s investigation, Mr. Elliott meets the qualifications prescribed by law for judicial service as a Family Court judge.

Mr. Elliott was born in 1952. He is 57 years old and a resident of Columbia, South Carolina. Mr. Elliott provided in his application that he has been a resident of South Carolina for at least the immediate past five years and has been a licensed attorney in South Carolina since 1981.

(2) Ethical Fitness:

The Commission’s investigation did not reveal any evidence of unethical conduct by Mr. Elliott.

Mr. Elliott demonstrated an understanding of the Canons of Judicial Conduct and other ethical considerations important to judges, particularly in the areas of ex parte communications, acceptance of gifts and ordinary hospitality, and recusal.

Mr. Elliott reported that he has not made any campaign expenditures.

Mr. Elliott testified he has not:

(a) sought or received the pledge of any legislator prior to screening;

(b) sought or been offered a conditional pledge of support by a legislator;

(c) asked third persons to contact members of the General Assembly prior to screening.

Mr. Elliott testified that he is aware of the Commission’s 48-hour rule regarding the formal and informal release of the Screening Report.

(3) Professional and Academic Ability:

The Commission found Mr. Elliott to be intelligent and knowledgeable. His performance on the Commission’s practice and procedure questions met expectations.

Mr. Elliott described his past continuing legal or judicial education during the past five years as follows:

Conference/CLE Name Date

(c) Masters of Cross Examination 02/06/09;

(d) Sidebar, S.C. Live 02/20/09;

(e) Sidebar S.C.: Family Law Update, Sept 05-April 06 02/29/08;

(f) Sidebar S.C.: Family Law Update, April 06-Oct 06 02/29/08;

(g) Anatomy for Lawyers 02/23/07;

(h) 2006 Annual Convention 08/03/06;

(i) Sidebar S.C.: Torts Law Update 2005 12/30/05;

(j) Sidebar S.C.: Real Estate Law Update 12/30/05;

(k) 2005 Annual Convention 08/04/05;

(l) U.S. Supreme Court Update 12/31/04;

(m) Demonstrative Evidence in DUI Cases 12/30/04;

(n) Marriage Law Update 12/30/04;

(o) Prof Liab: A Few Warnings About the Duty to Warn 12/30/04;

(p) New Lawyer’s Oath 08/05/04;

(q) 2004 Annual Convention 08/05/04.

Mr. Elliott reported that he has taught the following law-related courses:

“I have taught Criminal Justice at Midlands Technical College.”

Mr. Elliott reported that he has not published any books or articles.

(4) Character:

The Commission’s investigation of Mr. Elliott did not reveal evidence of any founded grievances or criminal allegations made against him. The Commission’s investigation of Mr. Elliott did not indicate any evidence of a troubled financial status. Mr. Elliott has handled his financial affairs responsibly.

The Commission also noted that Mr. Elliott was punctual and attentive in his dealings with the Commission, and the Commission’s investigation did not reveal any problems with his diligence and industry.

(5) Reputation:

Mr. Elliott reported that he is not rated by Martindale-Hubbell.

Mr. Elliott reported the following military service:

“I served in the United States Army (1972-1975). I was Sgt E-5; Ser. No. XXX-XX-XXXX. Not presently in Military. Honorable Discharge.”

(6) Physical Health:

Mr. Elliott appears to be physically capable of performing the duties of the office he seeks.

(7) Mental Stability:

Mr. Elliott appears to be mentally capable of performing the duties of the office he seeks.

(8) Experience:

Mr. Elliott was admitted to the South Carolina Bar in S.C. 1981.

He gave the following account of his legal experience since graduation from law school:

“I have been in private practice since November 1981. I worked with my two brothers, Robert and Tom Elliottt, until 1984, and I have been in private practice since. I have been counsel to the South Carolina Employment Commission since 1981. I have been attorney for indigents from the Juvenile Justice Parole Board since 1982 and have represented over 25,000 juveniles.”

Mr. Elliott further reported:

“I have primarily practiced in the Family Court since 1981 and I have a vast experience in all categories of Family Court Law.”

Mr. Elliott reported the frequency of his court appearances during the past five years as follows:

(a) Federal: seldom;

(b) State: weekly.

Mr. Elliott reported the percentage of his practice involving civil, criminal, and domestic matters during the last five years as follows:

(a) Civil: 15%;

(b) Criminal: 10%;

(c) Domestic: 75%.

Mr. Elliott reported the percentage of his practice in trial court during the past five years as follows:

(a) Jury: 25%;

(b) Non-jury: 75%.

Mr. Elliott provided that he most often served as sole counsel.

The following is Mr. Elliott’s account of his five most significant litigated matters:

(a) Rutherford v. Rutherford, 307 S.C. 199, 414 S.E. 2d (1992).

My client, the husband was seeking a divorce on the grounds of adultery. I had testimony from a number of sources that clearly proved adultery. The Defendant, wife, presented her psychiatrist that testified that she had 22 different personalities, and that Gypsy Rose, one of those personalities revealed to him that the adultery was committed. He felt, however, along with the trial court, that Mrs. Rutherford was innocent of adultery because she had committed the adultery as someone else. The wife was awarded alimony, and I took it up on appeal. The case received world-wide attention, and the Supreme Court eventually held that a person must be able to know right from wrong before a wrong they committed would be used against them for a ground for divorce.

(b) Gris McDonald and White Oak Properties, Inc vs. Shirley Griffin, et al.

On a breach of contract action on the sale of a house, a jury basically rescinded the contract requiring the seller to purchase the house back at the same price, with no award of damages. The opposing lawyer presented his time sheet accounting for hours he had spent along with an alternate fee agreement with the client providing for his receiving a third of any damages received. Since in rescinding the contract and making my client buy back the property he sold a the same price he sold it for, it was considered that he had breached the contract and was entitled to attorney’s fees, a term of the contract of sale. The trial court awarded the opposing attorney a third of the cost of the house rather than the amount of house he had worked at an hourly rate, which was less than a third of the cost of the house. I appealed the attorney’s fee award arguing that the opposing side had not received any positive benefits since the jury awarded no damages and the Plantiff got back their money, but they had to give back the house which was of the same value. The appellate court agreed with me that contingency agreement was invalid and the attorney’s hours spent was to be the attorney’s fee award. The case was a law course on legal fees in general, and my research has served me well in all cases in which attorney’s fees are an issue.

Names withheld due to confidentiality.

(c) \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ vs. S.C. Department of Mental Health.

This case was a worker’s compensation case in which my nurse client was attacked by an inmate at a mental health facility and received serious injuries. Under the policy of the S.C. Budget and Control Board, an employee injured be an inmate attack would receive full pay from their agency rather than the 66 2/3 of their average weekly wage under workers compensation. The case lasted for years, and due to my insisting my client be afforded all benefits she was entitled to under the law and policy, the policy was subsequently changed to allowing an injured employee full pay for a period of only six months. The case was a long, hard fought battle that brought policy change.

(d) \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ vs. \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_.

Trial at the Family Court level only. My client revealed that her two year old child was not her husband’s child, and that she wanted to tell him who the father was, and that she wanted a divorce and wanted to marry the father and live happily ever after. I required her to do a DNA test before she told her husband, and when the test revealed that the husband was not the father, she went ahead and told him. I filed suit in her behalf revealing all of the facts of the case, and I sought custody of the child for my client so that she could raise her with the real father. To my surprise, the husband, who had a part in raising the child just like mother, put up a fight for custody of the child himself. The trial was emotional and enlightening to me as to the bonds that can be acquired and maintained even after finding out such horrifying news. The Court awarded the mother custody but gave the husband visitation with the child. The case taught me valuable lessons concerning the bonds and relationships of non-biological parents, and the tragedy of deceit in a marriage.

(e) \_\_\_\_\_\_\_\_\_\_\_\_\_\_ vs. \_\_\_\_\_\_\_\_\_\_\_\_\_\_.

As a young lawyer I was appointed a Guardian ad Litem for a woman who was giving up her 4 year old little girl for adoption. The woman had suffered some mental health issues accompanied by drug abuse. I interviewed the lady and asked her what I thought to be pertinent questions concerning her decision to allow her daughter to be adopted. She answered very coldly and matter of fact about her realization that she could not provide a future for her daughter, and that she felt it was in the best interest of the child to be adopted by a couple who really wanted a child. I was somewhat taken back by the lack of tears involved by this conversation which led me to her mental health professionals that were helping her. I talked to all of them and they assured me that she had so mental capacity to make such a decision, and that she was well aware of the finality of her decision. I, of course, was ready to assure the court that I felt the mother was equipped to make the decision. There were Guardians appointed for the child, and home inspections done for the adopting couple out of Florida. I met them the day of Court. He was a police detective and she was a very nice professional lady that seemed so excited about adopting this little girl. Neither they nor I had ever seen this little girl. I was standing in the hall when I saw the mother walking down the hall holding the little girl’s hand. The little girl was beautiful. She could have been Shirley Temple’s stand-in in the movies. She was the most beautiful little girl I think I had ever seen. Her mother sat down on the bench in the hall and started to explain what was happening. This was the first time the little girl had ever heard of it. It was the most emotionally jarring scene I have ever witnessed. The little girl kept asking her mother crying why she had to go live with other people. She cried frantically while her mother very stoically and coldly told her that it was for her own good.

I could not stand it, and I had to do something or go somewhere else. I went into the room where the prospective parents were waiting to see the child. I told them that I had seen her and the emotional scene I had just witnessed. I was so emotionally charged at the time I told the lovely couple that they were going to faint when they saw this beautiful child, and I also asked them to be sweet to the child as they could possibly be. I consider myself a person in control of my emotions, but I was very moved by the whole case. I couldn’t get it off of my mind, and I have never been able to forget it. That experience spoke volumes to me about life, parenting, adoption, and the best interests of children.

The following is Mr. Elliott’s account of the civil appeals he has personally handled:

(a) Rutherford v. Rutherford, same as above;

(b) Williams vs. Williams

(c) Gris McDonald and White Oak Properties, Inc vs. Shirley Griffin, et al;

(d) Priscilla Maxwell vs. S.C. Department of Mental Health.

Mr. Elliott reported that he had has not personally handled any criminal appeals.

Mr. Elliott further reported the following regarding an unsuccessful candidacy:

“I ran for Family Court Judge Seat 1 in 2004. I was qualified as a candidate, but I was not nominated as one of the three by the Committee.”

(9) Judicial Temperament:

The Commission believes that Mr. Elliott’s temperament would be excellent.

(10) Miscellaneous:

Mr. Elliott is married to Pamela Willis Elliott. He has three children.

Mr. Elliott reported that he was a member of the following bar associations and professional associations:

(a) The South Carolina Bar;

(b) The Richland County Bar.

Mr. Elliott provided that he was a member of the following civic, charitable, educational, social, or fraternal organizations:

(a) Fort Jackson Golf Club;

(b) The Governor’s Advisory Council on Juvenile Justice.

Mr. Elliott further reported:

I have been successfully married for 37 years. I have raised three good children that have so far been successful in their endeavors. I coached youth baseball for over 20 years, and I have been attorney for juveniles in front of the Department of Juvenile Justice Parole Board for 27 years having represented conservatively over 20,000 juveniles. My private practice of 28 years has been predominately in the Family Courts of South Carolina with vast experience in all types of Family Court issues, none that I know of that exist that I haven’t had experience in handling.

I believe this background, my maturity, good judgment and positive demeanor will prove invaluable in adjudicating and making appropriate dispositions in all Family Court cases.

**The Midlands Citizens Committee found Mr. Elliott “Well-Qualified” for each of the nine evaluative criteria: constitutional qualifications, ethical fitness, professional and academic ability, character, reputation, physical health, mental stability, experience, and judicial temperament. They also noted that, “Mr. Elliott’s twenty-eight years of experience, in addition to his humility, his maturity, and desire for service make him a very eminently qualified and most highly regarded candidate. The committee is confident that he would serve the Family Court in a most outstanding manner.”**

(11) Commission Members’ Comments:

The Commission commented that Mr. Elliott is a very accomplished lawyer who understands the needs of the Family Court. They noted his great intellect, as he received the highest score among the judicial candidates in this race on the Family Court practice and procedures test.

(12) Conclusion:

The Commission found Mr. Elliott qualified and nominated him for election to the Family Court.

**Gwendlyne Young Smalls**

**Family Court, Fifth Judicial Circuit, Seat 4**

**Commission’s Findings: QUALIFIED AND NOMINATED**

(1) Constitutional Qualifications:

Based on the Commission’s investigation, Ms. Smalls meets the qualifications prescribed by law for judicial service as a Family Court judge.

Ms. Smalls was born in 1962. She is 47 years old and a resident of Columbia, South Carolina. Ms. Smalls provided in her application that she has been a resident of South Carolina for at least the immediate past five years and has been a licensed attorney in South Carolina since 1989.

(2) Ethical Fitness:

The Commission’s investigation did not reveal any evidence of unethical conduct by Ms. Smalls.

Ms. Smalls demonstrated an understanding of the Canons of Judicial Conduct and other ethical considerations important to judges, particularly in the areas of ex parte communications, acceptance of gifts and ordinary hospitality, and recusal.

Ms. Smalls reported that she has not made any campaign expenditures.

Ms. Smalls testified she has not:

(a) sought or received the pledge of any legislator prior to screening;

(b) sought or been offered a conditional pledge of support by a legislator;

(c) asked third persons to contact members of the General Assembly prior to screening.

Ms. Smalls testified that she is aware of the Commission’s 48-hour rule regarding the formal and informal release of the Screening Report.

(3) Professional and Academic Ability:

The Commission found Ms. Smalls to be intelligent and knowledgeable. Her performance on the Commission’s practice and procedure questions met expectations.

Ms. Smalls described her past continuing legal or judicial education during the past five years as follows:

Conference/CLE Name Date

(a) Family Court Mediation & Certification Training Seminar 07/17-21/08;

(b) 2007 Public Defender Conference 09/24/07;

(c) Federal Sentencing Guidelines 10/01/07;

(d) Federal Sentencing Guidelines 10/02/07;

(e) 2006 Public Defender Conference 09/25/06;

(f) Federal Sentencing Guidelines 03/03/05;

(g) Attorney ECF Training 08/11/05;

(h) 2005 Public Defender Conference 09/26/05;

(i) Revised Lawyer’s Oath 07/28/04;

(j) 2004 Public Defender’s Conference 09/27/04;

(k) Revised Lawyer’s Oath 09/28/04;

(l) 2nd Annual Summit and Retreat 10/21/04;

(m) Revised Lawyer’s Oath 10/21/04.

Ms. Smalls reported that she has not taught or lectured at any bar association conferences, educational institutions, or continuing legal or judicial education programs.

Ms. Smalls reported that she has not published any books or articles.

(4) Character:

The Commission’s investigation of Ms. Smalls did not reveal evidence of any founded grievances or criminal allegations made against her. The Commission’s investigation of Ms. Smalls did not indicate any evidence of a troubled financial status. Ms. Smalls has handled her financial affairs responsibly.

The Commission also noted that Ms. Smalls was punctual and attentive in her dealings with the Commission, and the Commission’s investigation did not reveal any problems with her diligence and industry.

(5) Reputation:

Ms. Smalls reported that she is not rated by Martindale-Hubbell.

(6) Physical Health:

Ms. Smalls appears to be physically capable of performing the duties of the office she seeks.

(7) Mental Stability:

Ms. Smalls appears to be mentally capable of performing the duties of the office she seeks.

(8) Experience:

Ms. Smalls was admitted to the South Carolina Bar in 1989.

She gave the following account of her legal experience since graduation from law school:

(a) 1989–95: Richland County Office of the Public Defender - Responsible for the representation of indigent persons in jury trials, guilty pleas, bond hearing, preliminary hearings and probation violations.

(b) 1994–95: Supervisor of the Juvenile Division - Responsible for overseeing two other attorneys in the public defender’s office. Duties included representing indigent persons in Family Court in bench trials, guilty pleas, waiver and detention hearings.

(c) (1992–Interim Chief Public Defender) – Responsible for the management of fifteen attorneys and support staff; presenting budget to County Council and maintaining an active caseload of approximately two hundred and fifty (250) cases.

(d) 1995–Present: Solo Practitioner, Law Offices of Gwendlyne Young Smalls–Practice in Family Court throughout the State of South Carolina involving juvenile defense, divorces, equitable distribution, adoptions, abuse and neglect and child custody and support matters. Practice in General Sessions and Magistrate Courts throughout the State of South Carolina in magistrate, state and federal criminal defense matters.

(e) 1995–96: Kellogg Contract with the Department of Social Services responsible for the termination of parental rights in approximately five counties.

Ms. Smalls further reported regarding her experience:

Divorce and equitable division of property: Since opening my law office in 1995, I have represented parties in numerous divorce proceedings. A number of these matters were highly contested and, as is the case with many family court proceedings, emotionally charged. I have pursued and defended divorce proceedings on all grounds, including adultery and physical cruelty as well as voluntary separation of the parties. Nearly all of the cases involved a dispute over marital and non-marital property and many of these cases required the analysis of complex issues of equitable distribution, including special equity issues. I have also been successful in resolving many of these matters through effective negotiation and participation in mediation;

Child Custody: The substantial majority of divorce cases that I handle involve minor children. Of these cases, parties often reach an agreement regarding the care and custody of the minor children. However, I have represented parties in a number of cases where an agreement could not be reached and vehement custody battles ensued. These cases required the appointment of a guardian ad Litem and required that my clients and I work with the guardian ad Litemto accomplish a result consistent with the best interest of the minor child. Many of these cases proceeded to trial and involved extensive discovery and depositions. I have found that the appointment of a guardian ad Litem is a crucial part of insuring the best result for the child;

Adoptions: After leaving the public defender’s office in 1995, and immediately upon opening my own law practice, I accepted a Kellogg Grant through the Department of Social Services. I was solely responsible for approximately five counties charged with the responsibility of termination of parental rights. The completion of the majority of these cases afforded the minor children the ability to be adopted. I have personally handled adoption actions and have been the appointed guardian on many actions for adoption. I have found that the vast majority of these cases are not contested, and the unification of the minor child with a permanent family is such a joy;

Abuse and Neglect: I have handled cases of abuse and neglect ranging from physical neglect and excessive corporal punishment to sexual abuse. All of these cases have delicate factors and oftentimes require expert witnesses;

Juvenile Justice: I have been involved in Family Court for nearly twenty years. Initially I was introduced to Family Court while working in the Richland County Public Defender’s Office. In addition to working in General Sessions Court, I worked in the juvenile division where my responsibility consisted of conducting waiver hearings, trials or guilty pleas before numerous family court judges.

Thus, while in private practice I have had the opportunity to represent adult litigants and minor children in every facet of family court.

Ms. Smalls reported the frequency of her court appearances during the past five years as follows:

(a) Federal: 3-5 times a year;

(b) State: Almost daily unless there is a not a term of court.

Ms. Smalls reported the percentage of her practice involving civil, criminal, and domestic matters during the past five years as follows:

(a) Civil: [Left Blank];

(b) Criminal: 40%;

(c) Domestic: 60%.

Ms. Smalls reported the percentage of her practice in trial court during the past five years as follows:

(a) Jury: 10%;

(b) Non-jury: 90%.

Ms. Smalls provided that she most often served as sole counsel.

The following is Ms. Smalls’s account of her five most significant litigated matters:

(a) State vs. Laverne Henry. This case involved a defendant who was charged with criminal sexual conduct of his step-daughter that occurred when she was a child. The allegations were made years after the alleged abuse, when the victim, now a young woman, was in counseling while in military training. The detailed facts and accounts of the actions of the step-father were alarming. While I have considerable experience in child abuse cases, this case was significant in that it highlighted the horrors of child sexual abuse and its impact on victims much later in life when repressed memories of such abuse occur as well as the impact of Post Traumatic Stress Disorder on the lives of child sexual abuse survivors.

(b) Hankins vs. Hankins. In this highly contested custody case I represented the father. The parties had a previous order in effect pursuant to which they were sharing physical custody of the minor child on a weekly rotation. At the time of trial, the minor child was 5 years old and the parties were residing in two separate counties, which rendered it impossible to continue the week-to-week rotation that had been in place for four years. This case was significant in that it made me acutely aware of the safeguards needed in consenting to a custody arrangement, particularly one where physical custody is shared. It apprised me of the importance of thinking well beyond the moment and anticipating circumstances such as relocation of the parties or the impact that other changes may have on the custody arrangement and ultimately, on the child.

(c) Department of Social Services vs. Gloria Bentley. In this case the defendant was the great aunt of a minor child that alleged substantial physical abuse by the defendant. The pictures presented at trial were quite graphic. Evidence was presented that the minor child had been physically abusive to her aunt for quite some time, but her aunt was reluctant to report the niece out of fear that her niece would be placed in the custody of the Department of Juvenile Justice. The significance of this case is that it opened my eyes to the reality that what is in the best interests of the child is to seek alternative assistance rather than take matters into your own hands.

(d) In Re Robert G. This case involved the representation of an eleven year old that was charged with the participation in a lynching that ultimately led to the death of his cousin. It was alleged that at the direction of their mother, the defendant, along with his brother, participated in the beating that resulted in the death of the boys’ cousin. In representing the minor child, I strenuously argued that he acted solely at the direction of his mother and should not be held accountable for his behavior. Based upon the child’s age, lack of criminal history and psychological evaluation, I was successful in obtaining a dismissal of the charges. This matter was significant because of the tender age of the child and the tremendous impact that a finding of delinquency would have had on him. This case was particularly noteworthy because the child was truly the victim of the undue influence of the mother.

(e) In Re Scott T. This case involved the representation of a juvenile charged with taking a knife on school grounds. After a thorough psychological evaluation, the juvenile was permitted to attend Three Springs, a therapeutic residential school and treatment facility in Trenton, Alabama, rather than being committed to the Department of Juvenile Justice. This case is significant in that it demonstrated the value of thoroughly researching viable alternatives for presentation to the court.

Ms. Smalls reported that she has not personally handled any civil or criminal appeals.

(9) Judicial Temperament:

The Commission believes that Ms. Smalls’s temperament would be excellent.

(10) Miscellaneous:

Ms. Smalls is not married. She has two children.

Ms. Smalls reported that she was a member of the following bar associations and professional associations:

(a) Richland County Bar Association;

(b) South Carolina Family Law Section;

(c) South Carolina Black Lawyer’s Association;

(d) South Carolina Women’s Law Association;

(e) South Carolina Legal Services Board of Directors;

(f) South Carolina Afterschool Alliance Board of Directors;

(g) South Carolina Criminal Law Section.

Ms. Smalls provided that she was a member of the following civic, charitable, educational, social, or fraternal organizations:

(a) Delta Sigma Theta Sorority Incorporated (Legal Advisor);

(b) School Improvement Council (Brennen Elementary, Crayton Middle Schools);

(c) Trustee Board, Lay Visitation Team Member, Pastor Parish Relations Committee, Francis Burns United Methodist Church;

(d) Advisory Board, South Carolina Community Bank;

(e) Jack and Jill of America.

Ms. Smalls further reported:

My family, faith, legal career and education are all life experiences that have greatly influenced the type of judge that I intend to be. A good judge is knowledgeable, fair, exhibits the appropriate demeanor and temperament and has an appreciation and respect for the attorneys and litigants that appear before her.

Having been raised by devoutly religious parents, including a father who is a Baptist minister, I was taught that I will be held accountable for all of my actions. My parents both came from considerably large families, each of eleven children. They taught me to be kind, patient and understanding. More importantly, they taught me not to take anything for granted, and to work diligently toward my goals. I have two beautiful children and am working daily to instill those same values in them.

Because of the tremendous impact of the church in my household, I learned a great deal about compassion, honesty, and that that there are consequences for all of our actions. I have come to realize that what you do may cause someone to mimic your actions. Therefore, I strive daily to be a positive influence not only in the lives of my two children, but all those with whom I encounter.

I have always had a strong work ethic. At the early age of thirteen, I begged my parents to allow me to work in a peach orchard, which they did. I have worked ever since. Although there have been considerable obstacles placed before me in life, the determination and strong trait of perseverance has propelled me forward and I know firsthand that the value of sacrifice and hard work is priceless.

A considerable portion of my law practice has been devoted to the issues that are heard in the Family Court. I am passionate about issues that affect children and families and possess the requisite experience and judicial temperament to serve as a Family Court Judge.

My varied legal experience has prepared me to meet the challenges that will be presented in Family Court.

My knowledge of the law, ability to apply the law to the facts before me, to relate well to others, and to remain neutral and unbiased will prove an asset to the Family Court.

**The Midlands Citizens Committee on Judicial Qualification reported that Ms. Smalls is “Well-Qualified” for each of the nine evaluative criteria: constitutional qualifications, ethical fitness, professional and academic ability, character, reputation, physical health, mental stability, experience, and judicial temperament. In summary, “the Committee believes that Ms. Smalls is very highly qualified to serve on the Family Court bench and we are confident she would serve in an outstanding manner.”**

(11) Commission Members’ Comments:

The Commission commented that Ms. Smalls is a “class act” with an analytical mind and good temperament, which would serve her well as a Family Court jurist. They noted that her diverse legal experience would also assist her on the bench.

(12) Conclusion:

The Commission found Ms. Smalls qualified and nominated her for election to the Family Court.

**Phillip K. Sinclair**

**Family Court, Seventh Judicial Circuit, Seat 1**

**Commission’s Findings: QUALIFIED AND NOMINATED**

(1) Constitutional Qualifications:

Based on the Commission’s investigation, Mr. Sinclair meets the qualifications prescribed by law for judicial service as a Family Court judge.

Mr. Sinclair was born in 1953. He is 56 years old and a resident of Spartanburg, South Carolina. Mr. Sinclair provided in his application that he has been a resident of South Carolina for at least the immediate past five years and has been a licensed attorney in South Carolina since 1978.

(2) Ethical Fitness:

The Commission’s investigation did not reveal any evidence of unethical conduct by Mr. Sinclair.

Mr. Sinclair demonstrated an understanding of the Canons of Judicial Conduct and other ethical considerations important to judges, particularly in the areas of ex parte communications, acceptance of gifts and ordinary hospitality, and recusal.

Mr. Sinclair reported that he has made $72.16 in campaign expenditures for “postage for letter of introduction.”

Mr. Sinclair testified he has not:

(a) sought or received the pledge of any legislator prior to screening;

(b) sought or been offered a conditional pledge of support by a legislator;

(c) asked third persons to contact members of the General Assembly prior to screening.

Mr. Sinclair testified that he is aware of the Commission’s 48-hour rule regarding the formal and informal release of the Screening Report.

(3) Professional and Academic Ability:

The Commission found Mr. Sinclair to be intelligent and knowledgeable. His performance on the Commission’s practice and procedure questions met expectations.

Mr. Sinclair described his past continuing legal or judicial education during the past five years as follows:

Conference/CLE Name Date

(a) Family Court Judges Conference 4/30/03;

(b) The Probate Process 8/22/03;

(c) Hot Tips from the Best Domestic Law Practitioners 9/19/03;

(d) Complex Issues in Divorce 5/10/04;

(e) New Lawyers’ Oath CLE 7/7/04;

(f) Family Court Mediation Training 7/15/04;

(g) Wofford and the Law with the Oath 9/24/04;

(h) Children’s Issues in Family Court 3/17/06;

(i) Plaintiff’s Personal Injury 9/28/06;

(j) Family Court Bench/Bar 12/1/06;

(k) Children’s Issues in Family Court 3/23/07;

(l) Defending Abuse and Neglect 9/21/07;

(m) Tips from the Bench IV 2/15/08;

(n) Hot Tips from the Coolest Domestic Lawyers 9/19/08;

(o) Drafting Effective Wills and Trust 10/27/08.

Mr. Sinclair reported that he has taught the following law-related courses:

(a) Rutledge Business College – Taught income taxation in the early 1980’s;

(b) Provided Legislative updates in Family Law to South Carolina Trial Lawyers on two occasions;

(c) Provided Legislative updates to South Carolina Family Court Judges Conference on two or three occasions.

Mr. Sinclair reported that he has published the following:

“Currently serving on Editorial Board for a book being written by James Fletcher Thompson on Adoptions. This book is expected to be published in 2010.”

(4) Character:

The Commission’s investigation of Mr. Sinclair did not reveal evidence of any founded grievances or criminal allegations made against him. The Commission’s investigation of Mr. Sinclair did not indicate any evidence of a troubled financial status. Mr. Sinclair has handled his financial affairs responsibly.

The Commission also noted that Mr. Sinclair was punctual and attentive in his dealings with the Commission, and the Commission’s investigation did not reveal any problems with his diligence and industry.

(5) Reputation:

Mr. Sinclair reported that his Martindale-Hubbell rating is AV.

Mr. Sinclair reported that he has held the following public office:

“Served in the South Carolina House of Representatives, District 35, from 2001 to 2006. All Ethics Report were timely filed, with the exception of the last report due which was due on December 31, 2006. The failure to file was an oversight on my part. Though I had left elective office, I still had a small amount of money in a campaign account. I paid a $100 fine and filed the report on February 2, 2007.”

(6) Physical Health:

Mr. Sinclair appears to be physically capable of performing the duties of the office he seeks.

(7) Mental Stability:

Mr. Sinclair appears to be mentally capable of performing the duties of the office he seeks.

(8) Experience:

Mr. Sinclair was admitted to the South Carolina Bar in 1978.

He gave the following account of his legal experience since graduation from law school:

(a) 1978-79 – Served as a law clerk to S.C. Circuit Judge Paul M. Moore. Assisted Judge Moore with legal research, preparation of Orders, etc.

(b) 1979-82 -- Assistant Solicitor for the 7th Judicial Circuit. Prosecuted criminal cases primarily in General Sessions Court. Also handled preliminary hearings and occasionally handled juvenile prosecutions. During this period of time, I prosecuted or assisted in the prosecution of virtually every type of criminal case from driving under the influence to capital murder cases.

(c) 1982-84 -- Thompson and Sinclair. Joined Fletcher D. Thompson, an established practitioner, in his law practice. I initially handled primarily criminal defense, but gradually developed a general practice including Civil Court, Probate and Family Court.

(d) 1984-95 -- Thompson, Sinclair and Anderson. Mr. Thompson and I were joined in practice by David F. Anderson. My practice continued to grow and expand. During this period of time, my practice became directed more toward Family Court. Though I continued to handle criminal, civil and probate work, my practice grew to more than 50% in Family Court. During the early years, Mr. Thompson and I represented a Spartanburg automobile dealership and handled several cases in Federal Court on behalf of the dealership. Mr. Thompson also began to develop an extensive adoption practice and I assisted him in this area of practice. In 1989, we were joined in practice by James Fletcher Thompson.

(e) 1995–98 – Thompson and Sinclair. David Anderson withdrew from our practice and continued to practice as a sole practitioner in the same location. My practice continued to grow in the area of Family Court.

(f) 1999–2006 – Phillip K. Sinclair, LLC. I continued to practice in all Courts, but primarily in Family Court. By the late 1990’s, my practice had become approximately 2/3 Family Court and the balance in civil and criminal Court with an occasional trial in Probate Court. I also served during this time in the South Carolina House of Representatives. While serving in the House, I had an associate, Angela J. Moss, who is assisted me on days when the House was in session.

(g) 2006 – present – Sinclair and Collins, LLC. I was joined in practice by David M. Collins, Jr. Both David and I practice heavily in Family Court, though we both work in other areas such as criminal law, Probate and occasionally in Civil Court.

Mr. Sinclair further reported:

1. Divorce and equitable division of property. I have practiced in the Family Court for more than 27 years. The last 15 to 20 years, I have practiced primarily in the Family Court. I currently have more than 100 open files, most of which are Family Court files. I have handled literally hundreds of divorces and almost all actions for divorce or Decree of Separate Maintenance involve the division of property. I have handled uncontested divorces, with very little or no property and have handled marital estates valued at several million dollars;

2. Child custody. I currently have open several child custody cases. Some of my child custody cases have involved fairly novel points of law. For example, I have handled several cases involving grandparent and third party custody. Within the last year, I handled a grandparent visitation case which involved a father living in Spartanburg County and maternal grandparents (mother was deceased) who lived in North Carolina. I have tried or handled child custody cases in Spartanburg County, Union County, Cherokee County, Greenville County and Greenwood County. I would estimate that I have handled several hundred child custody cases during my legal career;

3. Adoption. Early in my practice, my partner, Fletcher Thompson, developed an extensive adoption practice. Until 1989, I assisted him with many of those “new infant” adoptions. In 1989, we were joined in practice by his son, James Fletcher Thompson, who began to assist his father in this area. Since that time, the great majority of the adoptions I have handled have been step-parent and grandparent adoptions. While I do not have an exact number, I would estimate that I have handled in excess of 100 adoption cases;

4. Abuse and neglect. Early in my practice, I handled a number of abuse and neglect cases. However, in recent years, my practice has been more in the area of divorce, equitable division and child custody. I still on occasion handle abuse and neglect cases. Within the last two years, I have tried an abuse and neglect case that required two days of trial. I currently have several open files that involve abuse and neglect. On many occasions, I have been hired by the parties with whom children have been placed by DSS to bring private actions for custody. These are often grandparents or other extended relatives;

5. Juvenile Justice. Early in my career, I handled a limited number of juvenile prosecutions. I have also handled a number of defense cases involving juveniles. This has been a relatively infrequent area of practice in recent years. Within the last five years, I would estimate that I have handled no more than a dozen or so cases involving juvenile petitions.”

Mr. Sinclair reported the frequency of his court appearances during the past five years as follows:

(a) federal: 0%;

(b) state: 100%.

Mr. Sinclair reported the percentage of his practice involving civil, criminal, and domestic matters during the past five years as follows:

(a) civil: 15%;

(b) criminal: 5%;

(c) domestic: 70%.

Mr. Sinclair reported the percentage of his practice in trial court during the past five years as follows:

(a) jury: 10%;

(b) non-jury: 90%%.

Mr. Sinclair provided that he most often served as sole counsel.

The following is Mr. Sinclair’s account of his five most significant litigated matters:

(a) State v. John Robert Gore, 283 SC 118, 322 SE 2nd 12 (1984). This was the first murder case where I was primary counsel for a Defendant. I had only been out of the Solicitor’s Office a short time when I was associated by another attorney in this matter. I acted as chief counsel. This case was a purely circumstantial murder-arson case. My client was charged with killing a live-in girlfriend by setting the mobile home on fire in which they lived. At trial, the Defendant was questioned about a previous fire involving an earlier girlfriend. The Defendant was convicted of voluntary manslaughter and arson and received a 30 year sentence. We appealed this case and it was overturned on appeal.

(b) West v. West, 294 SC 190, 363 SE 2nd 402 (1987). This was a Family Court case in which I represented a father seeking custody of two small children. Though there has been a trend toward more fathers seeking and receiving custody, this was one of my earlier cases in which custody of small children was awarded to a father. The Court of Appeals found that because the husband had been the primary caregiver during the months prior to the separation, the Family Court did not abuse its discretion in awarding him custody of the children.

(c) McKeown v. McKeown, 1996 UP 00034 (Court of Appeals). This was a long and difficult trial involving a number of issues, including child custody and apportionment of marital property. At the outset of this case, the wife had taken the children and moved to another State. She was served in that State and returned for the temporary hearing. At the temporary hearing, the Court awarded custody of the children to the father. Counsel had to be retained in another State to enforce the Temporary Custody Order obtained in South Carolina. The final hearing was a three day trial. The father prevailed on the issue of custody and the case was appealed by the mother to the Court of Appeals. The father’s custody was affirmed by the Appeals Court.

(d) Smith v. Smith. (1994). This Family Court case in Spartanburg County was not appealed, so this is not a reported case. However, my client, Lonnie Smith, was a professional baseball player with the Atlanta Braves at the time I handled this case. The case was the first one that I had handled involving issues of alimony and child support where one party earned a huge income, but had a relatively short career in terms of time frame.

(e) Price v. Price. (2007). This is a Spartanburg County Family Court case that was settled prior to trial. The case involved a long-term marriage where all of the assets had been acquired during the marriage. The major marital asset was a construction company which had been formed by the parties early in the marriage. The case involved complex issues regarding division of property and alimony. The case was settled prior to trial by mediation.

The following is Mr. Sinclair’s account of the civil appeals he has personally handled:

(a) West v. West, 294 SC 190, 363 SE 2nd 402 (1987). This was a Family Court case from Spartanburg County that involved issues of divorce, equitable division, child custody, child support and alimony.

(b) McKeown v. McKeown, Unpublished Opinion #1996-UP-00034 (Court of Appeals). This was a Family Court case from Spartanburg County involving primarily the issues of child custody and child support.

(c) Butler, et al v. Stewart, Unpublished Opinion #2004-UP-060 (2004). This was a Spartanburg County case that involved the enforcement of Restrictive Covenants.”

The following is Mr. Sinclair’s account of a criminal appeal he has personally handled:

State v. John Robert Gore, 283 SC 118, 322 SE 2nd 12 (1984).

(9) Judicial Temperament:

The Commission believes that Mr. Sinclair’s temperament would be excellent.

(10) Miscellaneous:

Mr. Sinclair is married to Vicki Reynolds Butler Sinclair. He has three children.

Mr. Sinclair reported that he was a member of the following bar associations and professional associations:

(a) South Carolina Bar Association, 1978 to present;

Fee Dispute Resolution Committee for Spartanburg County (1986 to present);

(b) Spartanburg County Bar Association, 1978 to present

Family Court Committee Member, 1999 to present;

(c) American Bar Association, 1979 to present.

Mr. Sinclair provided that he was a member of the following civic, charitable, educational, social, or fraternal organizations:

(a) Croft Fire Commission – 2008 to present;

(b) Children Come First – 2009 to present;

(c) Spartanburg County SAFE Homes Rape Crisis Coalition Board Member – 2008 to present;

(d) Cedar Spring Baptist Church – 1980 to present, Deacon, former chairman, adult Sunday school teacher, stewardship chairman, pastor search committee (chairman).

Mr. Sinclair further provided:

I have practiced in the Family Court extensively for more than 27 years. During that time, I have worked with many clients who are going through stressful litigation in the Family Court. Almost every family is touched by family court litigation. Many families experience divorce, adoption or may have a family member who is involved in the Juvenile Justice or Abuse and Neglect systems. Hence, I believe it is one of the most important courts in our unified court system. Many people form their opinions about our legal system based on what happens in a Family Court case. I believe it is important that a Family Court Judge have appropriate legal knowledge, experience and, just as importantly, an appropriate demeanor. All litigants and lawyers in Family Court should be treated with respect and courtesy. Every litigant is entitled to be heard and to come away feeling that he or she was treated fairly. I believe that I have the requisite experience, training and temperament to provide a fair trial to all litigants, applying the facts to the law, and yet maintaining the appropriate atmosphere in the Court room.

**The Upstate Citizen’s Committee on Judicial Qualification found Mr. Sinclair to be “Well-Qualified” for each of the nine evaluative criteria: constitutional qualifications, ethical fitness, professional and academic ability, character, reputation, physical health, mental stability, experience, and judicial temperament. In addition, the Committee states: “The committee has received nothing but positive comments and information about Mr. Sinclair.”**

(11) Commission Members’ Comments:

The Commission commented that Mr. Sinclair is an outstanding individual who has a great temperament and has a good work ethic. They noted his more than 27 years of practice in the family court arena, which would serve him well as a Family Court jurist.

(12) Conclusion:

The Commission found Mr. Sinclair qualified and nominated him for election to the Family Court.

**Usha J. Bridges**

**Family Court, Seventh Judicial Circuit, Seat 3**

**Commission’s Findings: QUALIFIED AND NOMINATED**

(1) Constitutional Qualifications:

Based on the Commission’s investigation, Judge Bridges meets the qualifications prescribed by law for judicial service as a Family Court judge.

Judge Bridges was born in 1960. She is 49 years old and a resident of Gaffney, South Carolina. Judge Bridges provided in her application that she has been a resident of South Carolina for at least the immediate past five years and has been a licensed attorney in South Carolina since 1993.

(2) Ethical Fitness:

The Commission’s investigation did not reveal any evidence of unethical conduct by Judge Bridges.

Judge Bridges demonstrated an understanding of the Canons of Judicial Conduct and other ethical considerations important to judges, particularly in the areas of ex parte communications, acceptance of gifts and ordinary hospitality, and recusal.

Judge Bridges reported that she has made $72.16 in campaign expenditures “for postage for the mailings of the letters to the House and Senate members introducing myself.”

Judge Bridges testified she has not:

(a) sought or received the pledge of any legislator prior to screening;

(b) sought or been offered a conditional pledge of support by a legislator;

(c) asked third persons to contact members of the General Assembly prior to screening.

Judge Bridges testified that she is aware of the Commission’s 48-hour rule regarding the formal and informal release of the Screening Report.

(3) Professional and Academic Ability:

The Commission found Judge Bridges to be intelligent and knowledgeable. Her performance on the Commission’s practice and procedure questions met expectations.

Judge Bridges described her past continuing legal or judicial education during the past five years as follows:

Conference/CLE Name Date

(a) SCJA Annual Convention 09/04/2003;

(b) Guardian Ad Litem Training 03/05/2004;

(c) SCJA Annual Meeting 09/09/2004;

(d) Revised Lawyer’s Oath 09/07/2004;

(e) Children’s Issues in Family Court 03/18/2005;

(f) Judicial Oath of Office 09/09/2004;

(g) Legislative Reception & Seminar 03/09/2005;

(h) SCJA Annual Meeting Municipal 09/07/2005;

(i) Children’s Issues in Family Court 03/17/2006;

(j) Hot Tips From the Coolest 09/22/2006;

(k) Children’s Issues in Family Court 03/23/2007;

(l) (STOP) Domestic Violence Criminal Justice System 08/29/2006;

(m) SCJA Summer School 07/08/2007;

(n) (STOP) Domestic Violence 08/23/2007;

(o) SCJA Annual Convention 09/06/2007;

(p) Traversing the Ethnical Minefield

Ex-parte Communications 06/27/2008;

(q) SCJA Annual Convention and Seminar 09/03/2008;

(r) 2008 Public Defender Conference 09/29/2008;

(s) STOP Domestic Violence Coordinated 11/13/2008;

(t) Assisting the Volunteer Guardian 04/03/2009.

Judge Bridges reported that she has not taught or lectured at any bar association conferences, educational institutions, or continuing legal or judicial education programs.

Judge Bridges reported that she has not published any books or articles.

(4) Character:

The Commission’s investigation of Judge Bridges did not reveal evidence of any founded grievances or criminal allegations made against her. The Commission’s investigation of Judge Bridges did not indicate any evidence of a troubled financial status. Judge Bridges has handled her financial affairs responsibly.

The Commission also noted that Judge Bridges was punctual and attentive in her dealings with the Commission, and the Commission’s investigation did not reveal any problems with her diligence and industry.

(5) Reputation:

Judge Bridges reported regarding her rating in Martindale-Hubbell: “I am listed but I am unsure of a rating.”

Judge Bridges reported the following regarding holding a public office:

“I have not held public office although I ran an unsuccessful bid for the school board in 1994 or 1995. I filed a report with the State Ethics Commission.”

(6) Physical Health:

Judge Bridges appears to be physically capable of performing the duties of the office she seeks.

(7) Mental Stability:

Judge Bridges appears to be mentally capable of performing the duties of the office she seeks.

(8) Experience:

Judge Bridges was admitted to the South Carolina Bar in 1993.

She gave the following account of her legal experience since graduation from law school:

(a) April 1993-November 1993, Fletcher N. Smith, Attorney at Law, Greenville, South Carolina, General Practice;

(b) December 1993-June 1996, Fulltime Public Defender in Cherokee County, South Carolina (hired as juvenile public defender, although I assisted the other public defenders and did general sessions work as well as represented the volunteer guardian ad Litem for the abuse and neglect cases);

(c) July 1996-present, Contract public defender for juveniles, represented the volunteer guardian ad Litem for abuse and neglect cases, part-time municipal judge (since 1999) for the City of Gaffney, basically alternating week-end jail duty for warrants and bonds, practice consist mainly of Family Court work, ie divorces, child support, child custody equitable division cases.

Judge Bridges further reported:

“I have had extensive work in the Family Court involving all cases which may appear in the Family Court. Court is typically held in Cherokee County on a rotation of every other week. Normally, Monday mornings are set aside for juvenile court. I handle from as few as three cases up to ten to fifteen depending on the docket. Tuesday is set aside for the Department of Social Services. As I represent the Governor’s Office Volunteer Guardian ad Litem, I am normally in Court all day with various cases. I am normally on all of the cases unless there is a conflict and at which time the case is returned to the Clerk for an appointment from the bar. From January 2009 to June 2009, I have attended 115 hearings in which I represented the guardian ad Litem, I represented 62 juveniles and I have had 227 court appearances for private matters. These numbers are a good reflection of my case load and my court appearances.”

Judge Bridges reported the frequency of her court appearances as follows:

(a) Federal: 0;

(b) State: 70%.

Judge Bridges reported the percentage of her practice involving civil, criminal, and domestic matters as follows:

(a) Civil: 0%;

(b) Criminal: less than 1%;

(c) Domestic: 99%.

Judge Bridges reported the percentage of her practice in trial court as follows:

(a) Jury: less than 1%;

(b) Non-jury: 99%.

Judge Bridges provided that she most often served as associate counsel in jury matters and sole counsel in non-jury matters.

The following is Judge Bridges’s account of her five most significant litigated matters:

(a) Dawkins vs. Dawkins, equitable division. This case was significant because the parties had a lot of assets and it resulted in a 31/2 day trial in which I prevailed in the trial court. The case was appealed to the South Carolina Appellant Court and is currently awaiting arguments before the Supreme Court of South Carolina;

(b) Wolfe vs. Wolfe et al, termination of parental rights and adoption. This case was significant because, I lost on trial level, the case was appealed and as a result it was reversed and remanded. It was Unpublished Opinion No. 2007-up-459. My clients were eventually able to adopt the child which was a happy ending for all;

(c) State vs. Valerie Taylor, criminal. My client was charged with a 1978 murder. At the time of the crime, she was a male and had subsequently had a sex change operation. I was able to negotiate a plea to involuntary manslaughter;

(d) State vs. Dora Lynn Black, criminal. My client was charged with Burglary 1st, and Assault and Battery with the intent to Kill. After a 2 day jury trial, my client was found not guilty of all charges;

(e) DSS vs. Amy Waters. This was case in involved the death of one child at the hands of the mother. We were pretty sure that the two year old sibling witnessed the murder and we successfully terminated the parental rights of the mother for this child. Additionally, as result of information obtained we were able to protect other children.

Judge Bridges has not personally handled any civil or criminal appeals.

Judge Bridges reported that she has held the following judicial office:

“I currently am a municipal judge for the City of Gaffney. I have held this position since July 1999 and I was appointed initially by the mayor to fill in temporarily for a part-time judge who was suffering from some health issues. Sadly, he did not recover and I have been reappointed through the course of years. The jurisdiction is limited to criminal summary court and my duties entail doing week-end jail duty although I am sometime called upon to fill in for the chief municipal judge.”

Judge Bridges reported that she does not have any significant orders or opinions to provide.

Judge Bridges further reported the following regarding an unsuccessful candidacy:

“I was a candidate for school board and was defeated by an incumbent school board member.”

(9) Judicial Temperament:

The Commission believes that Judge Bridges’s temperament would be excellent.

(10) Miscellaneous:

Judge Bridges is married to Allie Bridges, Jr. She has five children.

Judge Bridges reported that she was a member of the following bar associations and professional associations:

(a) Cherokee County Bar Association;

(b) South Carolina Bar Association.

Judge Bridges provided that she was a member of the following civic, charitable, educational, social, or fraternal organizations:

“I am currently completing a second term on the Board of Visitors at the University of South Carolina. Unfortunately because of scheduling I have not been a very active member.”

Judge Bridges further reported:

I currently hold several titles but the one that is most important to me is the title of mother. Upon reentering law school in 1990, I had three children ages 5, 3 and 1. My husband was a long distant truck driver so for the most part I was a student, mother and father. We made it. Since coming back home to Gaffney, I have a good practice and I feel that I’ve done a good job in raising my children. My oldest child, graduated from North Greenville University and she got married in September 2008 and they are expecting their first child in January 09. The oldest son attends school at Limestone College and also maintains a fulltime job a Nestles. Hopefully, he will graduate in May 2010 with a degree in accounting. The third child attends Spartanburg Community College and works part time at Food Lion. This semester, he is an education major but this is subject to change. Samantha is the fourth child. She attends school at Granard Middle School where she is on the yearbook staff, head cheerleader and a member of the BETA Club. Lastly is Garrison. He is eight years old and in the third grade. He participates in sports and loves school. And I am still married to the father of my children after twenty-five years. I will not venture to say that all has been peaches and cream but I feel that in dealing with my marriage, my children and my career, I have been blessed to have much in sight into the real world. We are active members of Indian Hill Baptist Church and my mother is the pastor. My parents divorced when I was 11 years old. They remarried when I was 22 years old. I know first hand the effects of divorces on families and I feel that I have valuable insight into family matters that will truly be an asset to the family court bench. Life has a way of being the test teacher.

**The Upstate Citizen’s Committee on Judicial Qualification found Judge Bridges to be “Qualified” as to the constitutional qualification, ethical fitness, character, physical health, and mental stability. They reported her as well-qualified in the areas of Professional and academic ability, reputation, experience, and judicial temperament. The Upstate Citizens Committee reported that “The committee is extremely impressed with the positive reputation of this candidate in her community, as well as the wealth of experience she would bring to the Family Court bench. As the public defender for the juveniles in her county, the attorney for the GAL’s in DSS cases and practicing in private cases, she is highly qualified to handle any type of case a Family court Judge would be required to hear.”**

(11) Commission Members’ Comments:

The Commission commented that Judge Bridges has an excellent reputation within the community. They noted that she is a hard worker, which would assist her on the Family Court bench.

(12) Conclusion:

The Commission found Judge Bridges qualified and nominated her for election to the Family Court.

**John M. Rucker**

**Family Court, Eighth Judicial Circuit, Seat 2**

**Commission’s Findings: QUALIFIED AND NOMINATED**

(1) Constitutional Qualifications:

Based on the Commission’s investigation, Judge Rucker meets the qualifications prescribed by law for judicial service as a Family Court judge.

Judge Rucker was born in 1944. He is 65 years old and a resident of Newberry, South Carolina. Judge Rucker provided in his application that he has been a resident of South Carolina for at least the immediate past five years and has been a licensed attorney in South Carolina since 1969.

(2) Ethical Fitness:

The Commission’s investigation did not reveal any evidence of unethical conduct by Judge Rucker.

Judge Rucker demonstrated an understanding of the Canons of Judicial Conduct and other ethical considerations important to judges, particularly in the areas of ex parte communications, acceptance of gifts and ordinary hospitality, and recusal.

Judge Rucker reported that he has not made any campaign expenditures.

Judge Rucker testified he has not:

(a) sought or received the pledge of any legislator prior to screening;

(b) sought or been offered a conditional pledge of support by a legislator;

(c) asked third persons to contact members of the General Assembly prior to screening.

Judge Rucker testified that he is aware of the Commission’s 48-hour rule regarding the formal and informal release of the Screening Report.

(3) Professional and Academic Ability:

The Commission found Judge Rucker to be intelligent and knowledgeable. His performance on the Commission’s practice and procedure questions met expectations.

Judge Rucker described his past continuing legal or judicial education during the past five years as follows:

Conference/CLE Name Date

(a) S.C. Bar Family Law Section 1/23/09;

(b) S.C. Family Court Bench/Bar 12/05/08;;

(c) Judicial Conference 8/20/08;

(d) Family Court Judges Conference 4/23/08;

(e) S.C. Bar Family Law Section 1/25/08;

(f) S.C. Bar Family Court Bench/Bar 12/07/07;

(g) Judicial Conference 8/22/07;

(h) Family Court Judges Conference 4/25/07;

(i) S.C. Bar Family Law Section 1/26/07;

(j) S.C. Bar Family Court Bench Bar 12/1/06;

(k) Judicial Conference 8/23/06;

(l) Mini Summit on Justice for Children 8/22/06;

(m) Family Court Judges Conference 4/26/06;

(n) S.C. Bar Family Law Section 1/27/06;

(o) S.C. Bar Family Court Bench/Bar 12/2/05;

(p) Judicial Conference 8/24/05;

(q) Family Court Judges Conference 4/27/05;

(r) S.C. Bar Family Law Section 1/21/05;

(s) S.C. Bar Family Court Bench/Bar 12/3/04;

(t) Judicial Conference 8/19/04.

Judge Rucker reported that he has taught the following law-related courses:

(a) I was invited to participate as a speaker and a member of a panel at the Child Support Decision Making 2000, National Child Support Enforcement Association held in Washington D.C.;

(b) I have participated on panels in regard to Family Court practice at several Trial Lawyers Conferences and a Bar CLE.

Judge Rucker reported that he has not published any books or articles.

(4) Character:

The Commission’s investigation of Judge Rucker did not reveal evidence of any founded grievances or criminal allegations made against him. The Commission’s investigation of Judge Rucker did not indicate any evidence of a troubled financial status. Judge Rucker has handled his financial affairs responsibly.

The Commission also noted that Judge Rucker was punctual and attentive in his dealings with the Commission, and the Commission’s investigation did not reveal any problems with his diligence and industry.

(5) Reputation:

Judge Rucker reported that his last available Martindale‑Hubbell rating was BV.

Judge Rucker reported that he has held the following public offices:

(a) South Carolina House of Representatives, elected 1976 to 1980;

(b) Commissioner, South Carolina Tax Commission, appointed February 1984 to June 30, 1988.

(6) Physical Health:

Judge Rucker appears to be physically capable of performing the duties of the office he seeks.

(7) Mental Stability:

Judge Rucker appears to be mentally capable of performing the duties of the office he seeks.

(8) Experience:

Judge Rucker was admitted to the South Carolina Bar in 1969.

He gave the following account of his legal experience since graduation from law school:

(a) June 1969 to October 1969, Associate, Tench P. Owens, Attorney Clinton, S.C.;

(b) October 1969 to February 1971, Private Practice, Clinton, S.C.;

(c) February 1971 to June 30, 1988, Private Practice, Newberry, S.C.;

(In all of the above I was engaged in the General Practice of Law)

(d) July 1, 1988 to present, Family Court Judge.

Judge Rucker reported that he has held the following judicial offices:

(a) Recorder, City of Newberry, September 1971 to June 1976, elected by City Council, jurisdiction limited to minor criminal and traffic offenses;

(b) Family Court Judge, Eighth Judicial Circuit, July 1, 1988, to present, Jurisdiction limited to Family and Juvenile matters.

Judge Rucker provided the following list of his most significant orders or opinions:

(a) Doe vs Queen. This case involves the question as to whether the father of illegitimate child had met the requirements of S.C. Code 20-7-1690 (A)(5)(b) requiring the father to pay fair and reasonable support for the child or expenses incurred with the pregnancy. I held that the father had made sufficient prompt and good faith efforts to assume parental responsibility. The Court of Appeals reversed my order in its opinion reported in 342 S.C. 204, 535 SE2d 658. The Supreme Court of South Carolina granted certiorari and reversed the Court of Appeals reinstating my order. 347 S.C. 4, 552 SE2d 761.

(b) McElveen vs McElveen (332 S.C. 583) (552 SE2d 1). This is a extremely complicated case involving proof required for divorce on the ground of adultery, alimony, child support, the division of marital property and the valuation of a medical practice. The Court of Appeals affirmed my ruling as to proof of adultery and child support. The Court of Appeals further ruled that a by-sell agreement entered into by the partners in a medical practice could be an indicator of fair market value but must be considered in light of other evidence.

(c) In the interest of Amir X. S., a juvenile under the age of seventeen. Opinion 26219 S.C. Supreme Court (2006) This case involves a constitutional attack on a statute defining the offense of disturbing schools. The court affirmed my ruling that the statute is not overly broad. The Court found that the appellant did not have standing to challenge the statute as to vagueness because his conduct was clearly within the most narrow application of the statute.

(d) Kelley vs Kelley. Opinion 4106 S.C. Court of Appeals (2006) This was an action to recover unpaid alimony awarded in a 1974 divorce decree. The Court of Appeals upheld my ruling that the claim was barred by laches and equitable estopple.

(e) Chanko vs Chanko (327 S.C. 636) (490 SE2d 630) Included in this case was the issue of whether TWOP Accounts (Time off with pay accounts) used by some businesses rather than sick leave or vacation days are income to be added to the employee's income for child support purposes. I determined that this was not to be included in the gross income. This was upheld by the Court of Appeals.

Judge Rucker reported the following regarding his employment while serving as a judge:

“Practiced law while serving as part time Recorder for the City of Newberry, 1971 to 1976.”

Judge Rucker further reported the following regarding unsuccessful candidacies:

(a) Candidate for House of Representative, Democratic Primary 1974 and 1980;

(b) Candidate, At Large Circuit Court Judgeship, 1982;

(c) Candidate Resident Circuit Court Judgeship, 1998.

(9) Judicial Temperament:

The Commission believes that Judge Rucker’s temperament has been and would continue to be excellent.

(10) Miscellaneous:

Judge Rucker is married to Harriett Lee Rucker. He has two children.

Judge Rucker reported that he was a member of the following bar associations and professional associations:

(a) Newberry County Bar;

(b) South Carolina Bar;

(c) South Carolina Family Court Judges Association

(President 1996-97).

Judge Rucker provided that he was a member of the following civic, charitable, educational, social, or fraternal organizations:

(a) Central United Methodist Church;

(b) Rotary Club of Newberry;

(c) Newberry County Historical Society;

(d) Mason.

**The Piedmont Citizens Committee found Judge Rucker “Well-Qualified” for each of the nine evaluative criteria: constitutional qualifications, ethical fitness, professional and academic ability, character, reputation, physical health, mental stability, experience, and judicial temperament.**

(11) Commission Members’ Comments:

The Commission commented that Judge Rucker has very ably served as a jurist on the Family Court bench for the past 21 years.

(12) Conclusion:

The Commission found Judge Rucker qualified and nominated him for re-election to the Family Court.

**Judy L. McMahon**

**(formerly Judy Cone Bridges)**

**Family Court, Ninth Judicial Circuit, Seat 3**

**Commission’s Findings: QUALIFIED AND NOMINATED**

(1) Constitutional Qualifications:

Based on the Commission’s investigation, Judge McMahon meets the qualifications prescribed by law for judicial service as a Family Court judge.

Judge McMahon was born in 1945. She is 64 years old and is a resident of Charleston, South Carolina. Judge McMahon provided in her application that she has been a resident of South Carolina for at least the immediate past five years and has been a licensed attorney in South Carolina since 1977.

(2) Ethical Fitness:

The Commission’s investigation did not reveal any evidence of unethical conduct by Judge McMahon.

Judge McMahon demonstrated an understanding of the Canons of Judicial Conduct and other ethical considerations important to judges, particularly in the areas of ex parte communications, acceptance of gifts and ordinary hospitality, and recusal.

Judge McMahon reported that she has spent “less than $100.00” in campaign expenditures for “paper, postage and typing for forms submittal.”

Judge McMahon testified she has not:

(a) sought or received the pledge of any legislator prior to screening;

(b) sought or been offered a conditional pledge of support by a legislator;

(c) asked third persons to contact members of the General Assembly prior to screening.

Judge McMahon testified that she is aware of the Commission’s 48-hour rule regarding the formal and informal release of the Screening Report.

(3) Professional and Academic Ability:

The Commission found Judge McMahon to be intelligent and knowledgeable. Her performance on the Commission’s practice and procedure questions met expectations.

Judge McMahon described her past continuing legal or judicial education during the past five years as follows:

Conference/CLE Name Date

(a) S.C. Family Law Section Meeting 01/23/09;

(b) S.C. Family Court Bench/Bar 12/05/08;

(c) S.C. Judicial Conference 08/20/08;

(d) S.C. Trial Lawyers Assoc. Annual Conference 08/07/08;

(e) Family Court Judges Conference 04/23/08;

(f) Family Law Section 01/25/08;

(g) Family Court Bench/Bar 12/07/07;

(h) S.C. Annual Judicial Conference 08/22/07;

(i) Family Court Judges Conference 04/25/07;

(j) S.C. Family Court Bench/Bar 12/01/06;

(k) Mini Summit on Justice for Children 08/22/06;

(l) S.C. Annual Judicial Conference 08/23/06;

(m) S.C. Family Court Judges Conference 04/26/06;

(n) Family Law Section 01/27/06;

(o) S.C. Annual Judicial Conference 08/26/05;

(p) Family Court Judges’ Conference 04/27/05;

(q) S.C. Bar Convention 01/21/05;

(r) Seminar for Chief Judges for S.C. 12/10/04;

(s) S.C. Judicial Conference 08/19/04;

(t) Family Court Judges’ Conference 04/28/04;

(u) S.C. Family Law Section Meeting 01/23/04.

Judge McMahon reported that she has taught the following law-related courses:

(a) I served as a Panel member for the (S.C. Bar-CLE) -"Serving the Best Interests of Children;

(b) I was the speaker for (Governor's office, commission on women) - "Women of Achievement Awards Luncheon";

(c) I was the speaker for (S.C. Bar-CLE Seminar) - "Task Force o Justice";

(d) I served as Moderator for (S.C. Bar)-"Representing Children In Family Court";

(e) I served as speaker for (SCTLA) - "Have You Felt that the Practice of Law Isn't Fun Any More?";

(f) I served as Speaker for (League of women voters of the Charleston Area - "Children at Risk, from the Family Court Perspective";

(g) I served as speaker for (S.C. Bench/Bar Luncheon meeting - Charleston County Bar);

(h) I receive was awarded the Jean Bissell award and addressed those in attendance;

(i) I have made presentations on the topics of administrative and procedural requirements. (Discovery, Pretrial conferences, Docketing appropriate amount of time needed for hearing/motion, etc.;

(j) I have lectured at the Charleston County Bar/Family Law Lecture.

Judge McMahon reported that she has not published any books or articles.

(4) Character:

The Commission’s investigation of Judge McMahon did not reveal evidence of any founded grievances or criminal allegations made against her. The Commission’s investigation of Judge McMahon did not indicate any evidence of a troubled financial status. Judge McMahon has handled her financial affairs responsibly.

The Commission also noted that Judge McMahon was punctual and attentive in her dealings with the Commission, and the Commission’s investigation did not reveal any problems with her diligence and industry.

(5) Reputation:

Judge McMahon reported that she is not rated by Martindale-Hubbell.

(6) Physical Health:

Judge McMahon appears to be physically capable of performing the duties of the office she seeks.

(7) Mental Stability:

Judge McMahon appears to be mentally capable of performing the duties of the office she seeks.

(8) Experience:

Judge McMahon was admitted to the South Carolina Bar in 1977.

She gave the following account of her legal experience since graduation from law school:

“I graduated from the University of South Carolina Law School in December 1976, and I was admitted to the South Carolina Bar in May 1977. In September 1977, I was an Associate of Leonard Krawcheck Law Office, engaged in the general practice of law. We represented Seabrook Island Company in real estate transactions and acted as general counsel. Real estate, contracts, and domestic law were the areas in which I specialized. From October 1977 to October 1978, I also represented the City of Charleston as Assistant Corporation Counsel [sic] with the responsibility of prosecuting criminal cases in the Municipal Court, contracts, zoning issues and tax matters. From October 1978 to February 1983, I served as Associate Municipal Court Judge for the City of Charleston. In February 1983, I was elected as Family Court Judge for the Ninth Judicial Circuit, Seat #3. In February 1984, I was re-elected as Family Court Judge for the Ninth Judicial Circuit, Seat #3, re-elected in 1988, re-elected in 1992, re-elected in 1998, re-elected in 2004, and have served continuously ever since.”

Judge McMahon reported that she has held the following judicial offices:

“I served as Associate Municipal Court Judge for the City of Charleston from 1978 to 1983. The position is appointed by the Mayor upon consent from City Council. The Court has limited jurisdiction of $200.00 or thirty days in the County Jail, and involves criminal cases only. Also, I was elected as Family Court Judge of the Ninth Judicial Circuit in February, 1983, was re-elected in 1998, re-elected in 1998, re-elected in 2004, and have served continuously since. Jurisdiction is limited to domestic and juvenile criminal actions.”

Judge McMahon provided the following list of her most significant orders or opinions:

(a) Unpublished Opinion No. 2009-UP-103, SCDSS v. Lavinya W. and Franklin G., 04-DR-10-052;

(b) Unpublished Opinion No. 2008-UP-544, SCDSS v. Krystal H. and Michah Q., 06-DR-10-3954;

(c) Opinion No. 3685 & 25977, Thomas D. Wooten v. Mona R. Wooten, 99-DR-10-2169;

(d) Opinion No. 3966, Anna H. Lanier v. Robert F. Lanier, 02-DR-10- 3203;

(e) Opinion No. 4567, Walter M. Fiddie v. Dianna Fiddie, 05-DR-10-2663.

(9) Judicial Temperament:

The Commission believes that Judge McMahon’s temperament has been and would continue to be excellent.

(10) Miscellaneous:

Judge McMahon is married to Gerald Frederick McMahon. She has one child.

Judge McMahon reported that she was a member of the following bar associations and professional associations:

(a) Charleston County Bar:

Executive Committee, 1980

-Family Law Committee, 1982;

(b) South Carolina Bar:

Family Law Section Secretary, 1981-1983

Family Law Sub-Committee on Practice and Procedure Committee, 1981-1983;

Practice and Procedure Committee, 1981-1983

Young Lawyers Executive Committee, 1981-1983

Task Force on Justice For All, 1994-Present;

(c) South Carolina Trial Lawyers’ Association:

Family Law Section Co-Chairman, 1981-1983;

(d) South Carolina Family Court Judges Association:

Secretary-Treasurer, 1993

Vice President, 1994

President, 1995;

(e) South Carolina Supreme Court Joint Commission on Alternative Dispute Resolution:

Family Court Mediation Committee.

Judge McMahon provided that she was a member of the following civic, charitable, educational, social, or fraternal organizations:

(a) Winthrop College Board of Visitors;

(b) Grace Episcopal Church - Lay Eucharistic Minister;

(c) Grace Episcopal Church - Alter/Flower Guild;

(d) Grace Episcopal Church - Chalice Bearer;

(e) Grace Episcopal Church - Building and Grounds Committee for Memorial Garden;

(f) Grace Episcopal Church - Member of the Vestry;

(g) Church participant in Charleston Interfaith Crisis Ministry;

(h) Participate in Preservation Tours in Historic Charleston;

(i) Charleston Civic Forum on Families;

(j) The Garden Club of Charleston;

(k) The Gibbs Museum of Art;

(l) Charleston Committee for a New Judicial Center;

(m) Sewanee College Parents Counsel Member;

(n) Sewanee Intern Program.

Judge McMahon further reported:

In addition to my position as a resident Family court Judge of the Ninth Judicial Circuit, I have also been Chief Administrative Judge of the Fourteenth Judicial Circuit, particularly in Beaufort. I assumed these additional responsibilities in anticipation of being able to assume administrative responsibility as Chief Administrative Judge for the Ninth Judicial Circuit and have served in that capacity for a number of terms. I have been a Family Court Judge for over 25 years and I have endeavored to be fair, impartial, patient, and courteous. I consider Family court cases to be the most important cases in our system and I consider it an honor to serve in this Court.

**The Lowcountry Citizens Committee found her to be “Well-Qualified” for each of the nine evaluative criteria: constitutional qualifications, ethical fitness, professional and academic ability, character, reputation, physical health, mental stability, experience, and judicial temperament.**

(11) Commission Members’ Comments:

The Commission commented that Judge McMahon has been an exemplary Family Court Judge for 27 years, and has an outstanding reputation among both her peers and her community in general.

(12) Conclusion:

The Commission found Judge McMahon qualified and nominated her for re-election to the Family Court.

**Jack Alan Landis**

**Family Court, Ninth Judicial Circuit, Seat 6**

**Commission’s Findings: QUALIFIED AND NOMINATED**

(1) Constitutional Qualifications:

Based on the Commission’s investigation, Judge Landis meets the qualifications prescribed by law for judicial service as a Family Court judge.

Judge Landis was born in 1955. He is 54 years old and a resident of Moncks Corner, South Carolina. Judge Landis provided in his application that he has been a resident of South Carolina for at least the immediate past five years and has been a licensed attorney in South Carolina since 1980.

(2) Ethical Fitness:

The Commission’s investigation did not reveal any evidence of unethical conduct by Judge Landis.

Judge Landis demonstrated an understanding of the Canons of Judicial Conduct and other ethical considerations important to judges, particularly in the areas of ex parte communications, acceptance of gifts and ordinary hospitality, and recusal.

Judge Landis reported that he has not made any campaign expenditures.

Judge Landis testified he has not:

(a) sought or received the pledge of any legislator prior to screening;

(b) sought or been offered a conditional pledge of support by a legislator;

(c) asked third persons to contact members of the General Assembly prior to screening.

Judge Landis testified that he is aware of the Commission’s 48-hour rule regarding the formal and informal release of the Screening Report.

(3) Professional and Academic Ability:

The Commission found Judge Landis to be intelligent and knowledgeable. His performance on the Commission’s practice and procedure questions met expectations.

Judge Landis described his past continuing legal or judicial education during the past five years as follows:

Conference/CLE Name Date

(a) S.C. Bar Convention, Family Law Section 1/04;

(b) NCJFCJ Conference on Juveniles 3/04;

(c) Family Court Judicial Conference 5/04;

(d) SCTLA Annual Convention 8/04;

(e) Annual Joint Judicial Conference 8/04;

(f) Bench/Bar Family Law Seminar 12/04;

(g) S.C. Bar Convention, Family Law Section 1/05;

(h) Family Court Judicial Conference 5/05;

(i) NCFCJ Annual Conference 7/05;

(j) SCTLA Annual Convention 8/05;

(k) Annual Joint Judicial Conference 8/05;

(l) National Judicial College 9/05;

(m) Bench/Bar Family Law Seminar 12/05;

(n) S.C. Bar Convention, Family Law Section 1/06;

(o) National Judicial College 5/06;

(p) SCTLA Annual Convention 8/06;

(q) Annual Joint Judicial Conference 8/06;

(r) Bench/Bar Family Law Seminar 12/06;

(s) S.C. Bar Convention, Family Law Section 1/07;

(t) Family Court Judicial Conference 5/07;

(u) NCJFCJ Annual Conference 7/07;

(v) SCTLA Annual Convention 8/07;

(w) Annual Joint Judicial Conference 8/07;

(x) Bench/Bar Family Law Seminar 12/07;

(y) S.C. Bar Convention, Family Law Section 1/08;

(z) NCJFCJ Conference on Juveniles 3/08;

(aa) Family Court Annual Conference 4/08;

(bb) NCJFCJ Annual Conference 7/08;

(cc) SCTLA Annual Convention 8/08;

(dd) Annual Joint Judicial Conference 8/08;

(ee) Bench/Bar Family Law Seminar 12/08;

(ff) S.C. Bar Convention, Family Law Section 1/09;

(gg) Family Court Annual Conference 4/09.

Judge Landis reported that he has taught the following law-related courses:

(a) May 14, 1997 One Day Seminar- “Paralegals in Family Law”;

(b) Oct. 26, 2000 Charleston County Bar Association Family Law Seminar - “What a Judge Wants, Whata Judge Needs”;

(c) Dec. 14, 2001 S.C. Bar Association CLE- “Tips From the Bench”;

(d) May 1, 2003 Annual Family Court Judges Conference “Computer Forms and Templates for Judges.”

Judge Landis reported that he has published the following:

(a) Seminar materials to accompany the program presented to paralegals in May1997, as described above;

(b) Outlines for various chapters of the Bench Book created for the Family Court Bench. This is an ongoing project but my portions were written during the period 2006-07.

(4) Character:

The Commission’s investigation of Judge Landis did not reveal evidence of any founded grievances or criminal allegations made against him. The Commission’s investigation of Judge Landis did not indicate any evidence of a troubled financial status. Judge Landis has handled his financial affairs responsibly.

The Commission also noted that Judge Landis was punctual and attentive in his dealings with the Commission, and the Commission’s investigation did not reveal any problems with his diligence and industry.

(5) Reputation:

Judge Landis reported that his last available Martindale-Hubbell rating was BV.

(6) Physical Health:

Judge Landis appears to be physically capable of performing the duties of the office he seeks.

(7) Mental Stability:

Judge Landis appears to be mentally capable of performing the duties of the office he seeks.

(8) Experience:

Judge Landis was admitted to the South Carolina Bar in 1980.

He gave the following account of his legal experience since graduation from law school:

(a) 1980-84, Assistant Public Defender, Berkeley County, S.C. (part-time)

I represented indigent defendants in General Sessions and Family Court;

(b) 1980-84, Sole Practitioner, 311 E. Main St., Moncks Corner, S.C.

General practice of law including domestic and civil litigation, real estate transactions, and criminal defense litigation;

(c) 1984-Aug. 1989 Partner- Williams & Landis, 209 E. Main St., Moncks Corner, S.C. General practice of law including domestic and civil litigation, real estate transactions, and criminal defense;

(d) 1989-93 - Partner-Dennis, Dennis & Landis, 337 E. Main St., Moncks

Corner, S.C. General practice of law including domestic and civil litigation, real estate transactions, and criminal defense;

(e) 1993-98 - Partner- Landis & Louden, 295 N. Highway 52, Moncks

Corner, S.C. General practice of law including domestic and civil litigation, real estate transactions, and criminal defense;

(f) 1987-98 - Municipal Judge for the Town of Moncks Corner (part-time)

PO Box 276, Carolina Ave., Moncks Corner, S.C.;

(g) 1998-Present Judge, Family Court for the Ninth Judicial Circuit Seat 6, PO Box 1707, 300 B California Ave., Moncks Corner, S.C.

Judge Landis reported that he has held the following judicial offices:

(a) Municipal Judge, Town of Moncks Corner- May 1987-May 1998

This was an appointed position with jurisdiction of misdemeanors on the magistrate level, town ordinances, traffic offenses, execution of search and arrest warrants, bond hearings, and preliminary hearings;

(b) Family Court Ninth Judicial Circuit, Seat 6. Elected May 1998-present. Jurisdiction as set forth in Title 20, South Carolina Code of Laws, including but not limited to custody, divorce, adoption, termination of parental rights, child support, alimony, abuse and neglect, annulments, name changes, equitable apportionment, validity of marriages, paternity, and delinquency;

(c) Chief Administrative Judge (appointed) for either Berkeley or Charleston County for approximately six of eleven years on the bench.

Judge Landis provided the following list of his most significant orders or opinions:

(a) Widman v. Widman, 557 SE 2d 693, 348 S.C. 97, (Ct App. 2001)

This matter involved a number of issues including the determination of child support when the income of the parties exceeded Guideline amounts, equitable division of a marital estate with a value in excess of six million dollars, co-mingling of funds, valuation of limited partnership stock, family trusts and allegations of contempt;

(b) Middleton v. Johnson, 633 SE 2d 162, 369 S.C. 585, (Ct App. 2006)

Plaintiff was an individual unrelated by either blood or marriage to the subject minor child. He was seeking visitation privileges against the wishes of a fit biological Mother, claiming he was a “psychological parent”. I ruled that the law did not provide for an unrelated third party to seek visitation against the wishes of a fit parent.

The S.C. Court of Appeals overruled and established the criteria by which an unrelated third party could establish his or her status as a psychological parent and seek rights previously denied under the law;

(c) Pendergast v. Pendergast, 579 SE 2d 530, 354 S.C. 32, (Ct App. 2003)

This was an action by Plaintiff Father for modification of unallocated child support and alimony as a result of the graduation of the parties’ child from college. I granted a modification of child support based upon changed circumstances, but denied a modification of alimony and awarded attorney fees and costs to Defendant Mother. The S.C. Court of Appeals affirmed;

(d) Wall v Wall, S.C. Ct. App., Unpublished Opinion No. 2002-UP-405

Child custody, visitation, legal fees, alimony, child support, and valuation of assets were the issues presented in Wall. Husband was seeking alimony and a downward deviation from the Guidelines alleging diminished earning capacity. Husband was seeking an interest in Wife’s veterinary clinic and Wife was claiming an interest in proceeds from Husband’s personal injury settlement. My Order was affirmed on eleven of the twelve appealed issues;

(e) Charleston County Department of Social Services v. Cutler, Pollard, and Sumpter , Docket # 00-DR-10-4108, 2001

DSS filed for the termination of the parental rights of the Defendants who had had their children removed as a result of neglect or abuse. The Defendants were accused of extreme malnourishment of the children resulting in hospitalization for at least two. Defendants entered a treatment plan with the stated goal being reunification. The Defendants completed all of the requirements of the treatment plan.

Due to the unconventional lifestyle and the religious beliefs of the Defendants, the GAL and DSS caseworker opposed reunification regardless of Defendant’s compliance with the approved treatment plan.

After two and a half weeks of testimony it became clear that the GAL and DSS had decided to seek TPR even before the Defendants had had an opportunity to complete the plan. Additionally, obstacles were placed in an attempt to thwart successful completion.

I denied the TPR and ordered reunification.

Judge Landis reported the following regarding his employment while serving as a judge:

Other than serving as a judge, I have not had employment since being elected to the Family Court Bench in May of 1998.

While serving as appointed Municipal Judge for the Town of Moncks Corner from 1987 until 1998, I also maintained a private law practice. I was self employed in the general practice of law that included domestic, civil, and criminal litigation and real estate. As Municipal Judge the Mayor was my supervisor, the Town of Moncks Corner my employer.

Judge Landis further reported the following regarding unsuccessful candidacies:

(a) In February, 1996, I ran unsuccessfully for Seat #5, Family Court for the Ninth Judicial Circuit. I was found qualified by the Joint Legislative Screening Committee as well as the S.C. Bar Screening Committee;

(b) In 2008, I was a candidate for Seat #2, Circuit Court, Ninth Judicial Circuit. I was found qualified and was nominated but ultimately withdrew my name from consideration.”

(9) Judicial Temperament:

The Commission believes that Judge Landis’s temperament has been and would continue to be excellent.

(10) Miscellaneous:

Judge Landis is married to Sharon Bennett Landis. He has two children.

Judge Landis reported that he was a member of the following bar associations and professional associations:

(a) The South Carolina Family Court Judges Association;

(b) The South Carolina Bar Association;

(c) The Berkeley County Bar Association;

(d) National Council of Juvenile and Family Court Judges;

(e) I have been nominated as Secretary/Treasurer of the South Carolina Family Court Judges Association for 2009‑10.

Judge Landis provided that he was a member of the following civic, charitable, educational, social, or fraternal organizations:

(a) First Presbyterian Church of Moncks Corner, S.C.. Elder-inactive;

(b) Moncks Corner YMCA;

(c) Coach, Berkeley High School Mock Trial Team; S.C. State Champions 1989, 1991, 1993, 2000, 2002, 2005, 2006, and 2008;

(d) 2003 S.C. Bar Law Related Education Lawyer of the Year;

(e) 1994 S.C. Bar Pro Bono Service Award.

**The Lowcountry Citizens Advisory Committee found Judge Landis to be “Well-Qualified” for each of the nine evaluative criteria: constitutional qualifications, ethical fitness, professional and academic ability, character, reputation, physical health, mental stability, experience, and judicial temperament.**

(11) Commission Members’ Comments:

The Commission commented that Judge Landis has an outstanding intellect, an excellent demeanor, and has very ably served as a judge on the Family Court bench for 11 years.

(12) Conclusion:

The Commission found Judge Landis qualified and nominated him for re-election to the Family Court.

**Timothy Martin Cain**

**Family Court for the Tenth Judicial Circuit, Seat 2**

**Commission’s Findings: QUALIFIED AND NOMINATED**

(1) Constitutional Qualifications:

Based on the Commission’s investigation, Judge Cain meets the qualifications prescribed by law for judicial service as a Family Court judge.

Judge Cain was born in 1961. He is 48 years old and a resident of Walhalla, South Carolina. Judge Cain provided in his application that he has been a resident of South Carolina for at least the immediate past five years and has been a licensed attorney in South Carolina since 1986.

(2) Ethical Fitness:

The Commission’s investigation did not reveal any evidence of unethical conduct by Judge Cain.

Judge Cain demonstrated an understanding of the Canons of Judicial Conduct and other ethical considerations important to judges, particularly in the areas of ex parte communications, acceptance of gifts and ordinary hospitality, and recusal.

Judge Cain reported that he has “spent $3.00 in postage, paper, and envelopes to send a letter to members of my local Legislative Delegation informing them I am seeking re-election to this position.”

Judge Cain testified he has not:

(a) sought or received the pledge of any legislator prior to screening;

(b) sought or been offered a conditional pledge of support by a legislator;

(c) asked third persons to contact members of the General Assembly prior to screening.

Judge Cain testified that he is aware of the Commission’s 48-hour rule regarding the formal and informal release of the Screening Report.

(3) Professional and Academic Ability:

The Commission found Judge Cain to be intelligent and knowledgeable. His performance on the Commission’s practice and procedure questions met expectations.

Judge Cain described his past continuing legal or judicial education during the past five years as follows:

Conference/CLE Name Date

(a) Orientation School for New Family Court Judges 06-05-09;

(b) Family Court Judges Conference 04-22-09;

(c) Family Court Bench/Bar 12-05-08;

(d) Annual Judicial Conference 08-20-08;

(e) SCAJ 08-07-08;

(f) Orientation School for New Family Court Judges 06-04-08;

(g) Family Court Judges Conference 04-23-08;

(h) S.C. Bar Family Law Section 01-25-08;

(i) Family Court Bench/Bar 12-07-07;

(j) Annual Judicial Conference 08-22-07;

(k) NCJFC—60th Annual Conference 07-22-07;

(l) Orientation School for New Family Court Judges 07-11-07;

(m) Family Court Judges Conference 04-25-07;

(n) S.C. Bar—Family Law Section 01-26-07;

(o) Family Court Bench/Bar 12-01-06;

(p) Annual Judicial Conference 08-23-06;

(q) Mini Summit on Justice for Children 08-22-06;

(r) SCTLA 08-03-06;

(s) Orientation School for New Family Court Judges 07-10-06;

(t) Family Court Judges Conference 04-26-06;

(u) Oconee County Bar—Legal Education Seminar 02-24-06;

(v) S.C. Family Law Section 01-27-06;

(w) Family Court Bench/Bar 12-02-05;

(x) Annual Judicial Conference 08-24-05;

(y) SCTLA 08-04-05;

(z) Family Court Judges Conference 04-27-05;

(aa) S.C. Bar Family Law Section 01-21-05;

(bb) Seminar for Chief Administrative Judge 12-10-04;

(cc) Family Court Bench/Bar 12-03-04;

(dd) Judicial Oath of Office 08-19-04;

(ee) Annual Judicial Conference 08-19-04;

(ff) SCTLA 08-05-04;

(gg) Family Court Judges Conference 04-28-04;

(hh) S.C. Bar Family Court Section 01-23-04.

Judge Cain reported that he has taught the following law-related courses:

(a) In January 1997, I assisted in the presentation of an ethics program for the Oconee County Bar entitled “The Case of the Silent Alarm—A Study in Professionalism”. The program was based on a seminar approved by the Georgia State Bar. I was one of the moderators for this program and provided proof of compliance to the S.C. Commission on Continuing Legal Education and Specialization on behalf of the Bar;

(b) In September 2000, I participated as a lecturer in a CLE seminar at Clemson University. My topic was “A View of Ethics from the Bench”;

(c) I have attended several meetings of the Anderson and Oconee County Bar Associations to discuss rules of practice and procedure in the Family Court.;

(d) Instructor at the 2004 Seminar for Chief Administrative Judges;

(e) Instructor at the Orientation School for New Family Court Judges for the years 2006, 2007, 2008, and 2009;

(f) Guest lecturer at Anderson University, Anderson, S.C., Department of Criminal Justice;

(g) Lecturer at Legal Education Seminar presented by the Oconee County Bar in February 2006;

(h) Lecturer at Legal Education Seminar (Ethics) presented by the Oconee County Bar on May 1, 2009.

Judge Cain reported that he has not published any books or articles.

(4) Character:

The Commission’s investigation of Judge Cain did not reveal evidence of any founded grievances or criminal allegations made against him. The Commission’s investigation of Judge Cain did not indicate any evidence of a troubled financial status. Judge Cain has handled his financial affairs responsibly.

The Commission also noted that Judge Cain was punctual and attentive in his dealings with the Commission, and the Commission’s investigation did not reveal any problems with his diligence and industry.

(5) Reputation:

Judge Cain reported that his last available Martindale-Hubbell rating was BV.

Judge Cain reported that he has held the following public office:

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

(6) Physical Health:

Judge Cain appears to be physically capable of performing the duties of the office he seeks.

(7) Mental Stability:

Judge Cain appears to be mentally capable of performing the duties of the office he seeks.

(8) Experience:

Judge Cain was admitted to the South Carolina Bar in 1986.

He gave the following account of his legal experience since graduation from law school:

After graduation from law school, I engaged in the general practice of law, including practice in the areas of criminal law, family law, real estate, corporations and partnerships, wills and estates, personal injury, workers compensation, social security disability and government and administrative law.

During the first two years, while working with the Law Firm of Miley and Macaulay, my practice primarily involved trial work in the areas of domestic relations, criminal law and personal injury, as well as an office practice which included real estate and wills. During this time, I was fortunate to work closely with and learned from an experienced attorney who had been in practice for several years. This firm later became Miley, Macaulay and Cain. While working with this Firm, I also became a part-time Assistant Public Defender for Oconee County for approximately one (1) year during 1987, and was responsible for representing juveniles charged with crimes and offenses in Family Court who were not represented by private counsel. As an Assistant Public Defender, I represented juveniles in Family Court charged with a variety of offenses ranging from criminal sexual conduct, assault and battery, malicious damage to property as well as status offenses. I was also responsible for representing defendants in General Sessions Court. My work with juveniles and adults included representation at each stage of the legal process, including intake interviews, pre-trial conferences, preliminary hearings and other court appearances and trials.

In January 1988, I was offered a position as a part-time Assistant Solicitor for the Tenth Judicial Circuit (Oconee and Anderson Counties). I represented the State of South Carolina in child abuse and neglect proceedings in Family Court, as well as in adult protective services cases in Family Court;

In July 1988, I accepted a full-time position as Assistant Solicitor and served in this capacity until December 1989. During my two (2) years as an Assistant Solicitor, I prosecuted numerous child abuse and neglect cases in the Family Court and Court of General Sessions and handled cases through each stage of the legal process and worked with various agencies involved in these proceedings. These agencies included law enforcement, the Department of Social Services, the Guardian *ad Litem* Program, Department of Mental Health, Department of Juvenile Justice, Victim-Witness Assistance Program, school officials, as well as numerous professionals such as physicians, psychologists, therapists and others involved in the process.

Cases I handled in the Family Court included physical abuse, sexual abuse, physical neglect, educational neglect and mental injury. I also represented DSS in several adult protective services cases brought before the Family Court involving elderly clients and persons with special needs and prosecuted juvenile cases in Family Court.

During my time as Assistant Solicitor, I also prosecuted cases, including abuse and neglect cases, in the Court of General Sessions and tried cases in Anderson and Oconee Counties. I prosecuted many types of cases, including cases involving death, assault and battery with intent to kill, burglary and other cases involving crimes against persons and property. In General Sessions' cases, I have represented the State of South Carolina at each stage of the legal process, including bail hearings, preliminary hearings, motion hearings and trials. I have also represented the State in civil forfeiture proceedings;]

In 1990, I joined the Law Firm of Brandt & Fedder, with offices in Walhalla and Seneca. My primary office was located in Seneca, and I practiced at that location from January 1990 to April 14, 2000. In 1991, this firm became Brandt, Fedder, Graham & Cain. When I went back into private practice in January 1990, my primary areas of practice included domestic relations, criminal law and real estate law. I also assisted in representing several governmental entities which were clients of the firm, including Oconee County and two (2) municipalities.

In late 1992, Mr. W.J. Fedder, who had been in practice since 1956, and whose primary areas of practice included estate planning, corporations, partnerships and other business formations, real estate and workers compensation, expressed a desire to limit his practice. As a result, and in an effort to maintain these areas of practice and the client base of the firm, I began to devote more attention to these areas of law. Again, I was very fortunate to have the opportunity to work with other attorneys with a wide variety and depth of legal experience;

In 1992, I was retained as Attorney for Oconee County after the resignation of Larry C. Brandt from this position, and I served as County Attorney until April 2000;

In 1993, after the dissolution of the Firm of Brandt, Fedder, Graham & Cain, I formed my own Professional Association, Timothy M. Cain, P.A., and practiced under the style and name of Fedder and Cain, with Mr. Fedder acting in an "of counsel" position with the firm. At that time, Mr. Lindsey O. Graham moved to the Seneca location where we had an office-sharing arrangement and were associated until the time he left the practice of law to serve in the United States Congress;

In January 1996, I, along with attorneys Bradley A. Norton and Karen F. Ballenger, formed the Law Firm of Ballenger, Fedder, Cain & Norton, L.L.P., with offices in Walhalla and Seneca. Mr. Fedder and the late William H. Ballenger were "of counsel" to the firm. Mr. Norton primarily worked with me in the Seneca office, and in July 1998, upon the dissolution of that firm, we formed the firm of Fedder, Cain & Norton, L.L.P.

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

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

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

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

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

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

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

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

Judge Cain further reported:

“I have served in the capacity of Acting Supreme Court Justice by designation of the Chief Justice on several occasions. I have also served on the Chief Justice’s Family Court Advisory Committee.”

Judge Cain reported that he has held the following judicial office:

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

Judge Cain provided the following list of his most significant orders or opinions:

(a) *James Allen Eckstein v. Constance O. Eckstein*. Case No.99-DR-42-4914.

Order signed June 30, 2000. This case involved a determination of jurisdiction pursuant to the Uniform Child Custody Jurisdiction Act. A finding was needed as to whether the State of South Carolina or the State of Oklahoma had jurisdiction to hear and determine a child custody matter.

(b) *James Lee Roddy v. Frances L. Cleveland.* Unpublished Opinion No. 03-UP117 filed February 13, 2003. (S.C. Court of Appeals). This case involved an action for termination/reduction of alimony.

(c) *SCDSS v. Mother, Husband and John Doe*. Unpublished Opinion No.2007-UP-338. (S.C. Court of Appeals). This was a termination of parental rights action which, in addition to the issues involving the termination of the Defendant’s parental rights, also involved the legal doctrines of *res judicata* and collateral estoppels.

(d) *SCDSS v. Gunderson, et al.* Unpublished Opinion No. 2007-UP-256 (S.C. Court of Appeals). This was a termination of parental rights action. The central issue on appeal was whether the Defendant-Father had been precluded from visiting his biological child by a prior order of the court, thereby barring an action to terminate his rights on the ground of willful failure to visit.

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

(9) Judicial Temperament:

The Commission believes that Judge Cain’s temperament has been and would continue to be excellent.

(10) Miscellaneous:

Judge Cain is married to Peggy Renee Patterson Cain. He has one child.

Judge Cain reported that he was a member of the following bar associations and professional associations:

(a) Oconee County Bar Association—President, 1995;

(b) S.C. Bar Association;

(c) National Conference of Juvenile and Family Court Judges;

(d) S.C. Family Court Judges Association;

(e) Chief Justice’s Family Court Advisory Committee.

Judge Cain provided that he was a member of the following civic, charitable, educational, social, or fraternal organizations:

(a) St. Luke United Methodist Church, Walhalla, S.C.. Member of Community Outreach Committee, 2007-2008;

(b) Oconee Assembly;

(c) Walhalla Elementary School Improvement Council;

(d) Chickasaw Point Property Owners Association;

(e) Falcon Lair Community Service Association (POA).

Judge Cain further reported:

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

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

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

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

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

I was raised in rural Oconee County on a small farm. I have two (2) sisters. My parents both retired from the local textile mill, where I also worked for four (4) summers while in college and law school. During most of my time in college and law school, I was employed in part-time positions. While in college, I tutored students in mathematics and was a Residence Hall Advisor at the University of South Carolina. During my first year of law school, I was the Director of a men's residence hall, supervising six (6) staff members and two hundred forty-three (243) students. I also clerked for the Law Firm of Kligman & Fleming, where I learned how to examine real estate titles in Richland and Lexington Counties, and later worked as a Law Clerk in the Fifth Circuit Solicitor's Office (Richland and Kershaw Counties).

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

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

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

**The Upstate Citizens Advisory Committee found Judge Cain to be “Well-Qualified” for each of the nine evaluative criteria: constitutional qualifications, ethical fitness, professional and academic ability, character, reputation, physical health, mental stability, experience, and judicial temperament. They also noted, in summary, “The Committee has received nothing but positive comments regarding Judge Cain.”**

(11) Commission Members’ Comments:

The Commission commented on how qualified and well-respected Judge Cain is, and noted that the Family Court will be well served by his continued presence on the bench.

(12) Conclusion:

The Commission found him qualified and nominated him/her for re-election to the Family Court.

**Kellum Wright Allen**

**Family Court, Eleventh Judicial Circuit, Seat 1**

**Commission’s Findings: QUALIFIED AND NOMINATED**

(1) Constitutional Qualifications:

Based on the Commission’s investigation, Judge Allen meets the qualifications prescribed by law for judicial service as a Family Court judge.

Judge Allen was born in 1951. He is 58 years old and a resident of West Columbia, South Carolina. Judge Allen provided in his application that he has been a resident of South Carolina for at least the immediate past five years and has been a licensed attorney in South Carolina since 1976.

(2) Ethical Fitness:

The Commission’s investigation did not reveal any evidence of unethical conduct by Judge Allen.

Judge Allen demonstrated an understanding of the Canons of Judicial Conduct and other ethical considerations important to judges, particularly in the areas of ex parte communications, acceptance of gifts and ordinary hospitality, and recusal.

Judge Allen reported that he has not made any campaign expenditures.

Judge Allen testified he has not:

(a) sought or received the pledge of any legislator prior to screening;

(b) sought or been offered a conditional pledge of support by a legislator;

(c) asked third persons to contact members of the General Assembly prior to screening.

Judge Allen testified that he is aware of the Commission’s 48-hour rule regarding the formal and informal release of the Screening Report.

(3) Professional and Academic Ability:

The Commission found Judge Allen to be intelligent and knowledgeable. His performance on the Commission’s practice and procedure questions met expectations.

Judge Allen described his past continuing legal or judicial education during the past five years as follows:

Conference/CLE Name Date

(a) Judicial Conference 08/19/04;

(b) Family Court Bench/Bar Seminar 12/03/04;

(c) Seminar for Chief Judges 12/10/04;

(d) S.C. Bar Mid-Year Family Law Section 01/21/05;

(e) Family Court Judges Conference 04/27/05;

(f) SCTLA Annual Convention 08/04/05;

(g) Judicial Conference 08/25/05;

(h) Family Court Bench/Bar Seminar 12/02/05;

(i) S.C. Bar Family Law Section 01/26/06;

(j) Family Court Judges Conference 04/26/06;

(k) SCTLA Annual Convention 08/03/06;

(l) Judicial Conference 08/23/06;

(m) Mini-Summit – Justice for Children 08/22/06;

(n) Family Court Bench/Bar Seminar 12/01/06;

(o) S.C. Bar Family Law Section 01/25/07;

(p) Family Court Judges Conference 04/07;

(q) SCTLA Annual Convention 08/02/07;

(r) Judicial Conference 08/22/07;

(s) Family Court Bench/Bar Seminar 12/07/07;

(t) S.C. Bar Family Law Section 01/27/08;

(u) Family Court Judges Conference 04/08;

(v) Judicial Conference 08/20/08;

(w) Family Court Bench/Bar Seminar 12/05/08;

(x) S.C. Bar Family Law Section 01/23/09;

(y) Family Court Judges Conference 04/09.

Judge Allen reported that he has taught the following law related course:

I spoke at the “Cool Tips” Family Law CLE at the USC Law School, 4/25/03.

Judge Allen reported that he has not published any books or articles.

(4) Character:

The Commission’s investigation of Judge Allen did not reveal evidence of any founded grievances or criminal allegations made against him. The Commission’s investigation of Judge Allen did not indicate any evidence of a troubled financial status. Judge Allen has handled his financial affairs responsibly.

The Commission also noted that Judge Allen was punctual and attentive in his dealings with the Commission, and the Commission’s investigation did not reveal any problems with his diligence and industry.

(5) Reputation:

Judge Allen reported that his last available Martindale-Hubbell rating was AV.

Judge Allen reported that he has held the following public office:

(a) 1981-84 - Lexington County Council Appointee to Lexington Medical Center Board of Trustees;

(b) 1988-91 - Governor’s Appointee to Joint Legislature Committee on Solid Waste;

(c) 1990-95 - Governor’s Appointee to Advisory Committee for the Improvement of Worker’s Compensation Law.

(6) Physical Health:

Judge Allen appears to be physically capable of performing the duties of the office he seeks.

(7) Mental Stability:

Judge Allen appears to be mentally capable of performing the duties of the office he seeks.

(8) Experience:

Judge Allen was admitted to the South Carolina Bar in 1976.

He gave the following account of his legal experience since graduation from law school:

(a) 1976-78 - Greenville County Public Defender’s Office – General Sessions & Family Court Juvenile;

(b) 1978-98 - Kirkland, Wilson, Moore, Allen, Taylor & O’Day, P.A.– General - Trial Practice with emphasis on Civil & Family Court;

(c) 1998-Present Family Court Judge, 11th Judicial Circuit – Seat 1.

Judge Allen reported that he has held the following judicial offices:

(a) Elected by City of West Columbia City Council to three stints as Associate Municipal Judge as follows with jurisdiction limited to traffic and minor criminal offenses:

April 3, 1979 – March 8, 1982;

May 7, 1991-March 3, 1992;

September 15, 1994 - April 10, 1995.

(b) Elected by S.C. Legislature to S.C. Family Court to two stints as follows:

July 1, 1998-June 30, 2004;

July 1, 2004- Present.

Judge Allen provided the following list of his most significant orders or opinions:

(a) Daniel K. Brookshire, et al v. Toby Blackwell, et al (Op. No. 4587 – Filed 7/13/09);

(b) Matthew S. Walrath v. Stephanie A. Pope (Op. No. 4562 – Filed 6/12/09);

(c) Kathleen M. Bartlett v. James P. Rachels (Op. No. 4303–Filed 10/11/07);

(d) Don Allyn Ray v. Melinda Hodges Ray (Op. No. 26343 – Filed 6/25/07);

(e) Lyn Cherry Stribling as Personal Representative of Joseph Neal Stribling v. Linda Diane Stribling (Op. No. 4129 – Filed 6/26/06).

Judge Allen further reported the following regarding unsuccessful candidacies:

(a) Candidate in 1980 for Republican nomination to South Carolina House of Representatives from Lexington County;

(b) Candidate for 11th Judicial Circuit Court – Seat 2. Found qualified by Judicial Screening Commission. Withdrew candidacy before General Assembly election in February 2006.

(9) Judicial Temperament:

The Commission believes that Judge Allen’s temperament has been and would continue to be excellent.

(10) Miscellaneous:

Judge Allen is married to Jane Inman Allen. He has two children.

Judge Allen reported that he was a member of the following bar associations and professional associations:

(a) Honorary Member of Lexington County Bar Association, President 1986;

(b) S.C. Bar Association;

(c) S.C. Family Court Judges Association.

Judge Allen provided that he was a member of the following civic, charitable, educational, social, or fraternal organizations:

(a) Mt. Hebron United Methodist Church – I have served as adult and youth Sunday School teacher, MYF leader, Lay Leader, and Chairman or member of numerous church committees including chairman of Church Council which is the chief administrative body of the church;

(b) Quail Hollow Community Association;

(c) Brookland-Cayce High School Foundation

(d) Appointed by the S.C. Supreme Court as a member of the Commission on Lawyer Conduct;

(e) Appointed by the S.C. Supreme Court as a member of the Commission on CLE;

(f) Appointed by the S.C. Supreme Court as a member of the Commission on Judicial Conduct.

Judge Allen further reported:

I suppose my first notions of justice were formed as a child when I had the blessing and influence of growing up in a stable two-parent household. My parents with their marriage of 61 years lived lives which demonstrated fairness and compassion to all people which included a deep respect for each other.

During my private practice of 22 years I represented many clients and participated in the management of the law firm. All of these experiences gave me a deeper understanding of business relationships and finances which has proven extremely valuable in my judicial career.

Further, I feel certain that my wife of 32 years and I have gained maturity and wisdom in raising two children, ages 28 and 26. I have therefore experienced many of the day-to-day situations which surely confront litigants who appear before me.

**The Midlands Citizen’s Committee on Judicial Qualification found Judge Allen “Well-Qualified” for each of the nine evaluative criteria: constitutional qualifications, ethical fitness, professional and academic ability, character, reputation, physical health, mental stability, experience, and judicial temperament. The Committee provided the following summary statement: “Judge Allen is truly an asset to our state judiciary. The Committee greatly appreciates his honorable and outstanding service as a Family Court Judge. He is very eminently qualified to serve as a Family Court Judge.”**

(11) Commission Members’ Comments:

The Commission commented on Judge Allen’s excellent performance as a Family Court judge for 11 years and his knowledge of the law, as evidenced by his ability to clearly articulate complex legal issues. They also noted that his presentation at the Public Hearing was one of the finest presentations by a judge screened for re-election before the Commission.

(12) Conclusion:

The Commission found Judge Allen qualified and nominated him for re-election to the Family Court.

**Jerry Deese Vinson, Jr.**

**Family Court, Twelfth Judicial Circuit, Seat 3**

**Commission’s Findings: QUALIFIED AND NOMINATED**

(1) Constitutional Qualifications:

Based on the Commission’s investigation, Judge Vinson meets the qualifications prescribed by law for judicial service as a Family Court judge.

Judge Vinson was born in 1960. He is 49 years old and a resident of Florence, South Carolina. Judge Vinson provided in his application that he has been a resident of South Carolina for at least the immediate past five years and has been a licensed attorney in South Carolina since 1985.

(2) Ethical Fitness:

The Commission’s investigation did not reveal any evidence of unethical conduct by Judge Vinson.

Judge Vinson demonstrated an understanding of the Canons of Judicial Conduct and other ethical considerations important to judges, particularly in the areas of ex parte communications, acceptance of gifts and ordinary hospitality, and recusal.

Judge Vinson reported that he has not made any campaign expenditures.

Judge Vinson testified he has not:

(a) sought or received the pledge of any legislator prior to screening;

(b) sought or been offered a conditional pledge of support by a legislator;

(c) asked third persons to contact members of the General Assembly prior to screening.

Judge Vinson testified that he is aware of the Commission’s 48-hour rule regarding the formal and informal release of the Screening Report.

(3) Professional and Academic Ability:

The Commission found Judge Vinson to be intelligent and knowledgeable. His performance on the Commission’s practice and procedure questions met expectations.

Judge Vinson described his past continuing legal or judicial education during the past five years as follows:

Conference/CLE Name Date

(a) Family Court Judges' Conference 4/28/04;

(b) Family Law Section Meeting 1/23/04;

(c) 2004 Orientation School for New Judges 7/12/04;

(d) New Lawyer's Oath CLE 8/5/04;

(e) 2004 Judicial Conference 8/19/04-8/20/04;

(f) Judicial Oath of Office 8/19/04;

(g) Family Law Seminar 1/5/04;

(h) Family Court Bench/Bar 12/3/04;

(i) Horry County Bar Family Law Seminar 12/8/04;

(j) Drug Court Planning Initiative 1/6/05;

(k) Family Law Section 1/21/05;

(l) Drug Court Planning Initiative 3/2/05;

(m) 2005 Family Court Judges' Conference 4/28/05-4/29/08;

(n) NCJFCJ General Jurisdiction Seminar 7/11/05-7/21/05;

(o) 2005 Annual Judicial Conference 8/25/05-8/26/05;

(p) S.C. Family Court Bench 12/2/05;

(q) HCB Family Court Procedural and Substantive Law 12/9/05;

(r) Children's Law Seminar 10/14/05;

(s) S.C. Bar Family Law Section 1/27/06;

(t) Children's Issues in Family Court 3/17/06;

(u) 2006 Annual Family Court Judges' Conference 4/27/06-4/28/06;

(v) 2006 Orientation School for New Judges 7/10/06;

(w) 2006 SCTLA Annual Convention 8/3/06;

(x) Mini Summit on Justice for Children 8/22/06;

(y) 2006 Annual Judicial Conference 8/23/06;

(z) Family Court Bench/Bar 12/1/06;

(aa) HCB Family Court Procedural & Substantive Law 12/14/06;

(bb) Family Law Section 1/26/07;

(cc) Children's Issues in Family Court 3/23/07;

(dd) Family Court Judges' Conference 4/26/07-4/27/06;

(ee) 2007 Annual Judicial Conference 8/23/07-8/24/07;

(ff) Hot Tips from the Coolest Domestic Law Practitioners 9/21/07;

(gg) National Judicial College Advanced Evidence 10/1/07-10/4/07;

(hh) Family court Bench/Bar 12/7/07;

(ii) Alternative Dispute Resolution Section 1/24/08;

(jj) Family Law Section 1/25/08;

(kk) 6th Annual Civil Law Update 1/25/08;

(ll) Children's Law Committee 1/26/08;

(mm) Breakfast Ethics Seminar 1/27/08;

(nn) S.C. Bar Tips from the Bench 2/15/08;

(oo) 2008 Family Court Judges Conference 4/24/08-4/25/08;

(pp) National Forum on Children, Families & the Courts 4/30/08-5/2/08;

(qq) NCJFCJ Annual Conference 7/28/08-7/30/08;

(rr) 2008 Judicial Conference 8/21/08-8/22/08;

(ss) Hot Tips from the Coolest Domestic Law Practitioners 9/19/08;

(tt) Family Court Bench/Bar 12/5/08;

(uu) Family Law Section 1/23/09;

(vv) 2009 Family Court Judges Conference 4/23/09-4/24/09;

(ww) NCJFCJ Annual Conference 7/13/09-7/15/09.

Judge Vinson reported that he has taught the following law-related courses:

Course/Lecture Name Date

(a) Children's Law Seminar 10/14/05;

(b) Children's Issues in Family Court 3/17/06;

(c) 2006 Orientation School for New Judges 7/10/06;

(d) Charleston County Family Law Seminar 11/17/06;

(e) Children's Issues in Family Court 3/23/07;

(f) Hot Tips from the Coolest Domestic Law Practitioners 9/21/07;

(g) Children's Law Project Seminar on Abuse & Neglect 11/16/07;

(h) S.C. Bar Tips from the Bench 2/15/08;

(i) Hot Tips from the Coolest Domestic Law Practitioners 9/19/08;

(j) Children's Law Conference 10/31/08;

(k( Family Law Section 1/23/09;

(k) DSS Attorney Training 2/27/09.

Judge Vinson reported that he has published the following:

“I have prepared seminar materials for a majority of the seminars at which I have spoken.”

(4) Character:

The Commission’s investigation of Judge Vinson did not reveal evidence of any founded grievances or criminal allegations made against him. The Commission’s investigation of Judge Vinson did not indicate any evidence of a troubled financial status. Judge Vinson has handled his financial affairs responsibly.

The Commission also noted that Judge Vinson was punctual and attentive in his dealings with the Commission, and the Commission’s investigation did not reveal any problems with his diligence and industry.

(5) Reputation:

Judge Vinson reported that his last available Martindale-Hubbell rating was BV.

(6) Physical Health:

Judge Vinson appears to be physically capable of performing the duties of the office he seeks.

(7) Mental Stability:

Judge Vinson appears to be mentally capable of performing the duties of the office he seeks.

(8) Experience:

Judge Vinson was admitted to the South Carolina Bar in 1985.

He gave the following account of his legal experience since graduation from law school:

(a) From August 1985 until April 1986, I practiced as an associate with Haigh Porter in Florence, South Carolina. My responsibilities primarily involved mortgage foreclosure actions and real estate transactions.

(b) From April 1986 until July 1987, I served as a law clerk to the Honorable John H. Waller, Jr., Circuit Judge for the Twelfth Judicial Circuit. My responsibilities involved assisting Judge Waller with research and reviewing Orders and other documents presented for execution by Judge Waller.

(c) From July 19[8]7 until April 1992, I practiced as an associate with Turner, Padget Graham and Laney, P.A. in Florence, South Carolina. My practice involved civil litigation in State and Federal Court, primarily related to defense of insureds in personal injury, premises liability and business litigation.

(d) From April 1992 until December 1992, I practiced as an attorney with the Fallon Law Firm in Florence, South Carolina. My practice involved civil litigation primarily representing plaintiffs in personal injury cases.

(e) From January 1993 until January 2001, I was a shareholder with the Vinson Law Firm, PA, in Florence, South Carolina. My practice involved civil and domestic litigation, including personal injury cases and business litigation as well as divorce and custody actions. I also represented the Department of Social Services as a contract attorney for four (4) years during this period of time litigating all abuse and neglect cases. From 1993 until 2001, my practice gradually became more concentrated in Family Court to the extent that, by 1998, I practiced almost exclusively in Family Court.

(f) In January 2001, I merged my practice and became a partner in McDougall and Self, L.L.P, practicing in the Florence, South Carolina office. My practice was limited to Family Court litigation.

(g) On February 4, 2004, I was elected by the Legislature to the Twelfth Judicial Circuit Family Court Seat Three. I have served in that position since July 1, 2004.

Judge Vinson reported that he has held the following judicial office:

“I was elected by the Legislature to the Twelfth Judicial Circuit Family Court Seat Three on February 4, 2004. I have served in that position since July 1, 2004.”

Judge Vinson provided the following list of his most significant orders or opinions:

(a) James M. McNeely v. Martha McNeely, 02-DR-42-2099; April 11 to April 13, 2005 June 1 to June 2, 2005. This case involved issues of custody, visitation, child support, equitable distribution, alimony, and attorney fees. The case was complicated by the fact that the father had lost his employment, through no fault of his own, and delayed re-entry into the job market because of this litigation and the impact it would have on his claim of custody. With evidence presented from a custody evaluation and numerous witnesses, I created a split custody arrangement allowing the parents to spend significant time with the children and insuring that the children spent significant time with their sibling. There was income-producing property that required distribution in a manner which would provide income to the father while he became fully employed and also permit him to make child support and alimony payments to the mother. The request for attorney fees presented complications as it was necessary to determine which amounts were related to litigation concerning children's issues (versus all other issues) in order to make an appropriate award;

(b) Claudia Harris v. Robert Arthur Harris , 06-DR-21-1255; June 11-June 14, 2007. I was the third family court judge to hear this multi-year litigation between the parents of two daughters who were teenagers at the time of this hearing. The parents were unable to communicate or co-parent effectively and the children were suffering as a result. A primary factor which led to this litigation was deteriorating educational performances by both children. I found that a split custody arrangement was appropriate based upon the specific needs of each child and the parents' respective abilities to provide for those needs. I also created parenting responsibilities for both children which required the non-custodial parent to be involved exclusively in decisions concerning the child not in his or her custody. Finally, because I believed that the parents did not have consistency as a result of multiple judges, I retained jurisdiction so that all matters would be brought before me and I would be an a position to provide a more consistent approach to the parenting problems which arose in this matter;

(c) Steve Dawson v. Darlene Dawson, 03-DR-21-1978; June 28, 2005. This unusual case presented a wife with a history of mental illness who refused to cooperate or participate in this divorce proceeding. At issue were matters related to equitable distribution and alimony. An attorney and a guardian ad Litem had been appointed previously for the wife whose fees were being paid by the husband. The case was tried and an equitable distribution scheme was created; however, because the wife would not participate, there were a number of items of value in the wife's possession or control that could not be located or valued. There were also a number of assets that needed to be liquidated and the proceeds divided. In order to protect both parties' positions and to insure neutrality, I appointed a sequestrator to assist in identifying and locating property; valuing the property with the use of appropriate expert advice; and, in liquidating property so that it could be divided pursuant to the Court order. This was a lengthy process which required multiple hearings to insure that all property was properly identified, located, and sold in a commercially reasonable fashion;

(d) Annette Norman v. Joel Norman, 07-DR-21-1087; September 30 and October 1, 2008. This case involved issues of child support, alimony, equitable distribution, attorney fees and guardian fees. A complicating factor in this case was the father's employment in which he claimed to be earning substantially less than he had earned previously. This matter was also complicated by the fact that the parties were in bankruptcy and, while the stay had been lifted to allow the matter to proceed, there was concern regarding distribution of assets and debts which could be contrary to the bankruptcy court's ultimate determination. After applying all of the applicable factors, I was able to make an appropriate division of the property and to determine that the father was not entitled to an award of alimony based upon an applicable alimony factors. I also determined that the father had unnecessarily pursued issues in the litigation which caused the mother to incur substantial attorney fees and, in spite of the fact that he earned less income than the mother, required that he pay a portion of her reasonable fees pursuant to the Glasscock factors;

(e) John Doe and Jane Doe v. South Carolina DSS, et. al., 04-DR-14-374; July 22, 2009. This "ordinary" adoption was made extraordinary by the fact that the adoptive parents were residing in Japan, where the military father was stationed, with the three children being adopted. It was not possible for the adoptive parents to return to South Carolina for the hearing and the attorneys involved requested that the matter be completed by conference call. I requested that the attorneys arrange for a closed circuit hearing, or, in the alternative, use a computer based web cam and audio program such as Skype. I required that an official administer the oath in Japan while the court reporter was in the courtroom with the other parties and litigants. The hearing, which lasted for approximately two hours, was accomplished using the Skype technology and I was able to grant the adoption for a very deserving family.

(9) Judicial Temperament:

The Commission believes that Judge Vinson’s temperament has been and would continue to be excellent.

(10) Miscellaneous:

Judge Vinson is married to Flora Sue Lester Vinson. He does not have any children.

Judge Vinson reported that he was a member of the following bar associations and professional associations:

(a) South Carolina Bar

House of Delegates

Family Law Section council member and chair

Related Education Committee (Current);

(b) South Carolina Women Lawyers Association (Current);

(c) National Council of Juvenile and Family Court Judges (Current)

Elected July 14, 2008 to serve on Board of Trustees;

(d) Family Court Judges Association (Current);

(e) Bench/Bar Committee (Current)

-Best practices Subcommittee (Current);

(f) Governor's Task Force for Adoption and Foster Care (2007 to 2008).

Judge Vinson provided that he was a member of the following civic, charitable, educational, social, or fraternal organizations:

(a) Confirmed Communicant at St. John's Episcopal Church & former Vestry Member;

(b) Former Vice Chair of Francis Marion University Foundation Board;

(c) Past President Francis Marion Alumni Association;

(d) Graduate of Leadership Florence;

(e) Francis Marion University Outstanding Member of Alumni Association (1997);

(f) Kiwanian of the Year (1994);

(g) Participant - National Security Seminar - United States Army War College (2008).

Judge Vinson further reported:

For the 10 years prior to my election to the bench, I deliberately modified my practice to become a family court practitioner exclusively. I made a commitment to seek to improve my professional skills by my involvement in various organizations, including the Family Law Section Council of the South Carolina Bar and by attending and speaking at numerous continuing legal education seminars. Since my election to the bench, I have continued to attend and speak at seminars. I have attended the National Judicial College for the General Jurisdiction course as well as the Advanced Evidence course. I am involved in the National Council of Juvenile and Family Court Judges, attending seminars and conferences dealing with national and international issues effecting juveniles and families in our legal system.

I also serve on the Bench/Bar Committee where I work with representatives of the Department of Social Services (including General Counsel's office), practicing attorneys, members of the Governor's Guardian ad Litem program, Foster Care Review Board and other Judges, in seeking ways to improve our legal process particularly as it relates to children and families. To that end, I have also been involved as chair of the Best Legal Practices subcommittee in developing best legal practices to be followed in abuse and neglect cases and termination of parental rights cases. This was an extension of my involvement in the Governor's Task Force for Foster Care and Adoption.

Calling on my experiences as a family court practitioner, a former contract attorney for the Department of Social Services prosecuting abuse and neglect cases, and my experiences on the Family Court Bench, I am committed to improving the Judicial System and its responsiveness to the needs of children and families in South Carolina. This includes families involved in Department of Social Services cases; Department of Juvenile Justice cases; and private domestic relations cases.

**The Pee Dee Citizen’s Committee on Judicial Qualification found Judge Vinson to be “Well-Qualified” for each of the nine evaluative criteria: constitutional qualifications, ethical fitness, professional and academic ability, character, reputation, physical health, mental stability, experience, and judicial temperament. They noted with respect to his character that he is “consistently described as fair, organized, and passionate about children and the law,” and with respect to his judicial temperament, he is “gracious and respectful to parties and attorneys.”**

(11) Commission Members’ Comments:

The Commission commented that Judge Vinson has been a good Family Court jurist for five years, and his enthusiasm for his position was evident at the public hearing.

(12) Conclusion:

The Commission found Judge Vinson qualified and nominated him for re-election to the Family Court.

**Catherine Carr Christophillis**

**Family Court, Thirteenth Judicial Circuit, Seat 2**

**Commission’s Findings: QUALIFIED AND NOMINATED**

(1) Constitutional Qualifications:

Based on the Commission’s investigation, Ms. Christophillis meets the qualifications prescribed by law for judicial service as a Family Court judge.

Ms. Christophillis was born in 1954. She is 55 years old and a resident of Greenville, South Carolina. Ms. Christophillis provided in her application that she has been a resident of South Carolina for at least the immediate past five years and has been a licensed attorney in South Carolina since 1978.

(2) Ethical Fitness:

The Commission’s investigation did not reveal any evidence of unethical conduct by Ms. Christophillis.

Ms. Christophillis demonstrated an understanding of the Canons of Judicial Conduct and other ethical considerations important to judges, particularly in the areas of ex parte communications, acceptance of gifts and ordinary hospitality, and recusal.

Ms. Christophillis reported that she has not made any campaign expenditures.

Ms. Christophillis testified she has not:

(a) sought or received the pledge of any legislator prior to screening;

(b) sought or been offered a conditional pledge of support by a legislator;

(c) asked third persons to contact members of the General Assembly prior to screening.

Ms. Christophillis testified that she is aware of the Commission’s 48-hour rule regarding the formal and informal release of the Screening Report.

(3) Professional and Academic Ability:

The Commission found Ms. Christophillis to be intelligent and knowledgeable. Her performance on the Commission’s practice and procedure questions met expectations.

Ms. Christophillis described her past continuing legal or judicial education during the past five years as follows:

Conference/CLE Name Date

**(**a) Hot Tips from the Coolest 02/11/09;

(b) Greenville County Bar Year-end CLE 02/13/09;

(c) Attorney Ethics & Discipline 01/28/09;

(d) Tips from the Bar 02/15/08;

(e) Greenville County Bar Year-end CLE 02/08/08;

(f) Non-Profit 02/09/07;

(g) Civil and Criminal Law Update 12/08/06;

(h) Family Court Bar/Bench 12/01/06;

(i) Hot Tips from the Coolest 09/23/05;

(j) Children’s Issues in Family Court 03/18/05;

(k) Family Court Bar/Bench 12/03/04;

(l) Ethics and the Oath 11/16/04;

(m) Hot Tips from the Coolest Domestic 09/24/04.

Ms. Christophillis reported that she has taught the following law-related courses:

(a) Taught Family Law course at Greenville Technical College;

(b) Taught Legal Research course at Greenville Technical College;

(c) Lectured on child abuse and neglect to South Carolina Bar seminar;

(d) Lectured on child abuse and neglect to social service workers, mental health workers and law enforcement conferences;

(e) Lectured on child abuse and neglect to National Association of State Legislators conference in Nashville, Tennessee;

(f) Trained Guardian Ad Litems in Greenville, S.C., for governor’s Lay Guardian Program;

(g) Instructed teachers of Greenville County School District on child abuse issues;

(h) Trained prosecutors, legal service attorneys, law enforcement, medical personnel, social and mental health workers, drug treatment personnel and others regarding protocol for drug-impaired infants throughout all South Carolina judicial circuits;

(i) Lectured on insurance fraud at South Carolina Bar seminars, Association of South Carolina Claimants Attorneys for Workers’ Compensation conference, and various conferences of insurance industry personnel;

(j) Trained prosecutors, law enforcement, social service and mental health workers and others regarding investigation and prosecution of violations of the Omnibus Adult Protection Act throughout all South Carolina judicial circuits;

(k) Lectured on vulnerable adult exploitation under the Omnibus Adult Protection Act to annual conference of Probate Court Judges at Fripp Island.

Ms. Christophillis reported that she has published the following:

(*South Carolina Jurispurdence* (S.C. Bar CLE 1993), Contributing Author of the “Children and Families” topic of Volume 21.

(4) Character:

The Commission’s investigation of Ms. Christophillis did not reveal evidence of any founded grievances or criminal allegations made against her. The Commission’s investigation of Ms. Christophillis did not indicate any evidence of a troubled financial status. Ms. Christophillis has handled her financial affairs responsibly.

The Commission also noted that Ms. Christophillis was punctual and attentive in her dealings with the Commission, and the Commission’s investigation did not reveal any problems with her diligence and industry.

(5) Reputation:

Ms. Christophillis reported that her Martindale-Hubbell rating is BV.

Ms. Christophillis reported that she has held the following public office:

“I was elected to Greenville City Council At-Large, 1993-95. I timely filed my report with the State Ethics Commission during that time period.”

(6) Physical Health:

Ms. Christophillis appears to be physically capable of performing the duties of the office she seeks.

(7) Mental Stability:

Ms. Christophillis appears to be mentally capable of performing the duties of the office she seeks.

(8) Experience:

Ms. Christophillis was admitted to the South Carolina Bar in 1978.

She gave the following account of her legal experience since graduation from law school:

(a) Christophillis Law Offices,1978-85 – handled primarily private cases in family court and small percentage of cases in criminal court and civil court.

(b) Solicitor’s Office of the 13th Judicial Circuit, 1985-92 – ran child abuse and neglect case unit, which involved handling child abuse and neglect cases for S.C. DSS in family court and prosecuting all child abuse and neglect cases in general sessions court; started domestic violence protocol and handled domestic violence prosecutions.

(c) Culbertson, Christophillis & Sauvain, PA, 1992-95 – handled private cases in family court exclusively.

(d) S.C. Attorney General’s Office, 1995-2000 – started first insurance fraud prosecutions for the state of South Carolina and handled insurance fraud prosecutions throughout South Carolina; wrote and trained prosecutors, legal service attorneys, law enforcement, medical personnel, social and mental health workers, drug treatment personnel and others regarding protocol for drug-impaired infants throughout all South Carolina judicial circuits; director of elder abuse division, prosecuted violations of the Omnibus Adult Protection Act throughout all South Carolina judicial circuits, and trained prosecutors, law enforcement, social service and mental health workers and others regarding investigation and prosecution of violations of the Omnibus Adult Protection Act throughout all South Carolina judicial circuits.

(e) Catherine C. Christophillis, Attorney At Law, 2000-present – handle private family court case; serve as Guardian Ad Litem in private custody cases; serve as Family Court Mediator; handle a very small percentage of criminal and civil cases.

(f) In addition to the above, my legal experience includes the following appointments:

* + 1. Chairman, State Child Fatalities Committee (1988-95)
    2. Chief Justice appointee, South Carolina Family Court Mediation and Alternative Dispute Resolution Rules Committee (1990)
    3. Gubernatorial appointee, Joint Legislative Committee on Children, and Chairman, Subcommittee for Child Abuse and Neglect (1992-96)
    4. Gubernatorial appointee, Governor Carroll Campbell’s Property Tax Reform and Accountability Advisory Committee (1994)
    5. Gubernatorial appointee, Maternal, Infant and Children’s Committee (1990’s)
    6. General Assembly’s Joint Committee for Drug-Impaired Infants (1997)
    7. Federal Court United States Magistrate Judge Merit Selection Panel (2000).

Ms. Christophillis further reported:

In the practice areas of divorce and equitable division of property, child custody and adoption, during the above-stated years in private practice, I have handled numerous cases involving divorce, equitable division of property, child custody, adoption, child support, and separate maintenance and support. In these areas, I have negotiated settlements, drafted settlement agreements, handled contested trials, handled uncontested cases, mediated disputes in these areas and served as GAL in contested custody and adoption cases.

In the practice areas of abuse and neglect and juvenile justice, I ran the child abuse and neglect unit of the 13th Circuit Solicitor’s Office, which involved handling all the DSS cases in family court and circuit court, negotiating settlements, and trying contested cases. In the course of handling that unit, associated juveniles were involved in prosecutions I handled. As part of my private practice, I represented juvenile offenders at detention hearings, adjudication hearings, and contested trials.

Ms. Christophillis reported the frequency of her court appearances during the last five years as follows:

(a) federal: 0%;

(b) state: I am in family court very frequently during an average week. Of my court appearances, I would estimate 90% to be in family court and the remaining 10% in circuit court, master’s court, summary court or probate court.

Ms. Christophillis reported the percentage of her practice involving civil, criminal, and domestic matters during the last five years as follows:

(a) civil: 9%;

(b) criminal: 1%;

(c) domestic: 90%.

Ms. Christophillis reported the percentage of her practice in trial court during the last five years as follows:

(a) jury: 2%;

(b) non-jury: 98%.

Ms. Christophillis provided that she most often served as sole counsel.

The following is Ms. Christophillis’s account of her five most significant litigated matters:

(a) State v. J. C. Rice – This case that I prosecuted in 2000 before a jury in General Sessions Court in Union County was significant because it was the first trial and conviction under the Exploitation of a Vulnerable Adult, S.C. Code Section 43-35-85.

(b) State v. John Frank Williams – This murder case that I defended in 1983 before a jury in General Sessions Court in Greenville County resulted in a not guilty verdict and was significant because of difficult circumstances and issues, especially the defendant’s admission of shooting the victim in self-defense.

(c) State v. Sherry Pace*,* 337 S.C. 407, 523 S.E.2d 466 (Ct.App. 1999) *–* This case that I prosecuted before a jury in General Sessions Court in Greenville County was significant because it was the first trial and conviction under the Insurance Fraud Act, S.C. Code Section 38-55-530(D).

(d) Nasser-Moghaddassi v. Moghaddassi, 364 S.C. 182, 612 S.E.2d 707 (Ct.App. 2005) – This is a family court case in which I was involved as Guardian Ad Litem for the parties’ three minor children at the trial level. The case was significant because it was the first time the Court of Appeals applied the *Patel* standards by finding that my investigation as GAL for the children was independent, balanced and impartial. See Patel v. Patel, 347 S.C. 281, 555 S.E.2d 386 (2001).

(e) State v. Whitner, 328 S.C. 1, 492 S.E.2d 777 (1996) – As director of the Child Abuse and Neglect unit of the 13th Judicial Circuit Solicitor’s Office, I initiated the first prosecutions in the state of women who gave birth to drug-impaired infants under the child abuse and neglect statute, S.C. Code Section 20-7-50. This case was significant because the State Supreme Court held for the first time that the word “child” as used in the statute includes viable fetuses.

The following is Ms. Christophillis’s account of the civil appeals she has personally handled:

(a) Jerry Fowler v. Southern Bell - won personal injury verdict in US District Court, which was upheld on appeal to the U.S. Court of Appeals, 4th Circuit (unpublished);

(b) Loftis v. Loftis, 286 S.C. 12, 331 S.E.2d 372 (Ct.App. 1985).

Ms. Christophillis’s reported that she has not personally handled any criminal appeals.

Ms. Christophillis further reported the following regarding unsuccessful candidacies:

“I ran for Greenville County Council in 1984. In the Fall of 2008, I ran as a candidate for Family Court Judge, 13th Judicial Circuit, Seat #6, was found qualified and was recommended to the General Assembly by the JMSC, but I withdrew prior to the election.”

(9) Judicial Temperament:

The Commission believes that Ms. Christophillis’s temperament would be excellent.

(10) Miscellaneous:

Ms. Christophillis is married to Constantine S. Christophillis, Jr. She has three children.

Ms. Christophillis reported that she was a member of the following bar associations and professional associations:

(a) Greenville County Bar;

(b) South Carolina Bar.

Ms. Christophillis provided that she was a member of the following civic, charitable, educational, social, or fraternal organizations:

(a) Board member of Greenville Transit Authority (Mayoral appointee);

(b) Chairman of North Main Street Traffic Study Committee (City Council appointee);

(c) Chairman of Board of Centre Stage South Carolina;

(d) Board member of Upstate Community Mediation Center;

(e) Member of Junior League of Greenville and Junior League Singers;

(f) Greenville Kiwanis Club;

(g) Recipient of Metropolitan Arts Council Volunteer Award;

(h) Graduate of Leadership South Carolina.

Ms. Christophillis further reported:

Thirty-two years ago, when I was a second-year law student, my father gave me the book Simple Justice. This book chronicled the historic case of Brown v. Board of Education, published the year of my birth. My father inscribed in the book, “On balance, the law profession has helped salvage the most noble hopes we see all too dimly – you have chosen well.” Simple Justice has stayed on my desk ever since, and my father’s words “noble hopes” have permeated throughout my life and career.

I have always found noble hopes in helping families one case, one child, one parent, and one grandparent at a time. These hopes, fueled by compassion, tenacity, and an understanding spirit, have guided me through 31 years of advocating for families by handling their divorces, their custody battles, their separations, and other challenges in Family Court.

These hopes have made me an advocate for children who have been abused or neglected. They have taken me to the State House to testify for the “Homicide by Child Abuse” and Child Fatalities Statutes, which I wrote. These hopes took me to Nashville as a speaker before the National Conference of State Legislators to present the intervention protocol for drug-impaired infants, which I developed.

These hopes took me to Washington, DC, to testify before Congress about the success of the protocol. These hopes took me to all of our State’s judicial circuits to educate and train multi-disciplinary teams.

Abused and neglected adults are often an overlooked segment of our population. Their hopes took me again to all 46 of our counties, training and educating teams on intervention and prosecution on their behalf. It took me back to Washington, DC, to present our protocol before the US Attorney General.

In the early 1990’s, I recognized the potential of mediation before it was implemented in South Carolina. I received my 40 hours of training and certification in Atlanta when it was not yet available in South Carolina and helped write the rules that we now use in our state. Today, mediation is recognized as an integral part of our Family Court system, having succeeded in offering an alternative means of resolving very difficult cases.

These noble hopes guided me through service as an at-large member of Greenville City Council and as an active volunteer for many different civic and non-profit groups.

These noble hopes have especially allowed me to serve my God as a member of the choir and as a former Sunday School teacher at St. George Greek Orthodox Cathedral in Greenville.

Most importantly, these noble hopes are found in the love of my family, my three children, and my husband of 31 years. My father spoke of “noble hopes we see all too dimly,” but my life experience has allowed me to see noble hopes most brightly. They shine steadfastly. My hope is now to serve the citizens of South Carolina as a Family Court Judge and help deliver “Simple Justice.”

**The Upstate Citizen’s Committee on Judicial Qualification found Ms. Christophillis to be “Well-Qualified” for each of the nine evaluative criteria: constitutional qualifications, ethical fitness, professional and academic ability, character, reputation, physical health, mental stability, experience, and judicial temperament.**

(11) Commission Members’ Comments:

The Commission commented that Ms. Christophillis has tremendous experience in the Family Court and would be a asset to the Family Court bench. They also noted her active civic involvement on the local and state levels.

(12) Conclusion:

The Commission found Ms. Christophillis qualified and nominated her for election to the Family Court.

**Harry L. “Don” Phillips, Jr.**

**Family Court, Thirteenth Judicial Circuit, Seat 2**

**Commission’s Findings: QUALIFIED AND NOMINATED**

(1) Constitutional Qualifications:

Based on the Commission’s investigation, Mr. Phillips meets the qualifications prescribed by law for judicial service as a Family Court judge.

Mr. Phillips was born in 1964. He is 45-years old and a resident of Greenville, South Carolina. Mr. Phillips provided in his application that he has been a resident of South Carolina for at least the immediate past five years and has been a licensed attorney in South Carolina since 1991. He was also admitted to the Alabama Bar in 1996.

(2) Ethical Fitness:

The Commission’s investigation did not reveal any evidence of unethical conduct by Mr. Phillips.

Mr. Phillips demonstrated an understanding of the Canons of Judicial Conduct and other ethical considerations important to judges, particularly in the areas of ex parte communications, acceptance of gifts and ordinary hospitality, and recusal.

Mr. Phillips reported that he has made approximately $50 in campaign expenditures for copy paper, postage, and a printer cartridge.

Mr. Phillips testified he has not:

(a) sought or received the pledge of any legislator prior to screening;

(b) sought or been offered a conditional pledge of support by a legislator;

(c) asked third persons to contact members of the General Assembly prior to screening.

Mr. Phillips testified that he is aware of the Commission’s 48-hour rule regarding the formal and informal release of the Screening Report.

(3) Professional and Academic Ability:

The Commission found Mr. Phillips to be intelligent and knowledgeable. His performance on the Commission’s practice and procedure questions met expectations.

Mr. Phillips described his past continuing legal or judicial education during the past five years as follows:

Conference/CLE Name Date

(a) Masters in Cross Examination 02/06/09;

(b) 2008 Family Ct. Bench & Bar 12/05/08;

(c) SCDSS OGC 12/07/07;

(d) Managing Ethical Issues 12/19/06;

(e) Mini Summit on Justice for Children 08/22/06;

(f) SCPSAC 12th Annual Colloquim 04/06/06;

(g) SCPSAC 11th Annual Colloquim 02/24/05;

(h) HotTips from the Coolest Domestic Practitioners 09/23/05; 12/13/05;

(i) SCDSS OGC 09/30/05;

(j) SCPSAC10th Annual Colloquim 02/26/04;

(k) SCDSS OGC 05/21/04;

(l) Lawyer’s Oath 05/21/04;

(m) SCDSS OGC 09/17/04.

Mr. Phillips reported that he has taught the following law-related courses:

“I have been a guest lecturer on the topics of family law and domestic practice for students in the Greenville Technical College paralegal program on several occasions and for a Lander University class. I have also been a lecturer in a SCDSS Office of General Counsel seminar concerning the use of hearsay statements made by children under S.C. Code Section 19-1-180.”

Mr. Phillips reported that he has not published any books or articles.

(4) Character:

The Commission’s investigation of Mr. Phillips did not reveal evidence of any founded grievances or criminal allegations made against him. The Commission’s investigation of Mr. Phillips did not indicate any evidence of a troubled financial status. Mr. Phillips has handled his financial affairs responsibly.

The Commission also noted that Mr. Phillips was punctual and attentive in his dealings with the Commission, and the Commission’s investigation did not reveal any problems with his diligence and industry.

(5) Reputation:

Mr. Phillips reported that he is not rated by Martindale-Hubbell.

(6) Physical Health:

Mr. Phillips appears to be physically capable of performing the duties of the office he seeks.

(7) Mental Stability:

Mr. Phillips appears to be mentally capable of performing the duties of the office he seeks.

(8) Experience:

Mr. Phillips was admitted to the South Carolina Bar in 1991.

He gave the following account of his legal experience since graduation from law school:

(a) 1991-95, Associate, Haynsworth, Marion, McKay & Guerard. I was involved in an insurance defense practice with a focus on automobile accidents and coverage issues, products liability, collections and workers compensation;

(b) 1996-2001, Partner, Hunter, Foster & Phillips. I continued in an insurance defense and collections practice, and additionally handled divorce, custody, equitable distribution, child abuse and neglect (defense) and representation of guardians in Family Court;

(c) 2001-present, Attorney, South Carolina Department of Social Services. I have practiced in Family Court since 2001 representing the South Carolina Department of Social Services in child abuse and neglect cases, vulnerable adult abuse/neglect/exploitation cases, and termination of parental rights/adoption cases. I have also represented the Department in Probate Court and the Court of Common Pleas. I additionally provide advice to the Department on legal matters and interpretation of statutes and policy provisions, and, since 2006, I have been the senior attorney in the Greenville County office, with supervisory responsibility for four attorneys and five paralegals.

Mr. Phillips further reported:

Beginning in 1996, I have represented numerous clients in cases involving divorce, equitable division of property and child custody in Family Court. These cases constituted approximately 50% of my practice prior to 1991 when I became a full time SCDSS attorney. I was fully involved in all aspects of case preparation, including preparation of affidavits and financial declarations, compiling witness lists and preparation of the witnesses for trial, child support calculations, and drafting of Orders at the request of the Judge following the hearing. Representation of clients in those cases also often involved appearances in contempt hearings and protection from domestic abuse hearings, and hearings involving child support (for a reduction in amount, an increase in amount, and/or for failure to pay), and application of the Uniform Child Custody Jurisdiction Act. The divorce cases covered both fault-based grounds and one year continuous separation, annulments and bigamy situations. Additionally, I represented guardians and served myself as a guardian, in contested custody cases. I also handled name changes, adoption and emancipation cases which were sometimes related to an underlying divorce or child custody case.

In 1991, I began full-time employment with the Department of Social Services. I have since handled hundreds of cases (with trials and hearings on a weekly basis) involving all aspects of child abuse and neglect, and cases involving abuse/exploitation/neglect of vulnerable adults. In the trial of the cases involving children, custody has oftentimes been both contested and litigated, both from the aspect of bringing children into foster care, and from the aspect of which parent or relative(s) would end up with custody of the child or children. The cases have consisted of almost every scenario imaginable, including sex abuse, physical abuse, physical neglect, medical neglect, mental injury, financial exploitation, educational neglect, death of a child, excessive corporal punishment, and cases requiring the use of interpreters for all hearings (Spanish, Chinese, Russian, Central American Indian dialects, sign language). A substantial number of the cases have resulted in a termination of parental rights and eventual adoption of the child/children. These cases have often also required interaction with other South Carolina agencies involved with the families, such as the Department of Mental Health and the Department of Disabilities and Special Needs, and agencies in other states involving implementation of the Interstate Compact for the Placement of Children (ICPC). Not surprisingly, I have also handled many cases in which the children involved in the SCDSS case are also juvenile defendants in a case brought against them by the Solicitor’s office and involving the Department of Juvenile Justice. Oftentimes the subject juvenile defendants have been placed into foster care by emergency protective custody, or were already in foster care and committed some crime while in a foster care placement or while on run-away from the foster home, thus necessitating my involvement in the juvenile case.

Mr. Phillips reported the frequency of his court appearances during the last five years as follows:

(a) Federal: none in the past 5 years;

(b) State: weekly (multiple times weekly);

(c) Other: N/A.

Mr. Phillips reported the percentage of his practice involving civil, criminal, and domestic matters during the last five years as follows:

(a) Civil: 0%;

(b) Criminal: 0%;

(c) Domestic: 100%.

Mr. Phillips reported the percentage of his practice in trial court during the last five years as follows:

(a) Jury: 0%;

(b) Non-jury: 100%.

Mr. Phillips provided that he most often served as sole counsel, “however as senior counsel for our SCDSS legal office, I have often appeared as chief counsel and/or in a supervisory capacity with younger attorneys.”

The following is Mr. Phillips’s account of his five most significant litigated matters:

(a) SCDSS vs. Frederick Downer, Melissa Downer. This was actually a series of cases which took place over several years and involved nine children. The cases involved literally every type of abuse and neglect I have encountered in eight years as an attorney for SCDSS, including eliciting testimony from child witnesses, involvement of several of the children with the Department of Juvenile Justice, and, eventually, termination of parental rights;

(b) SCDSS vs. Melissa Ann Hunsucker, et. al. This case involved negligence (failure to protect) and sexual abuse of a minor child. In addition to being a well contested case which involved expert testimony, it was significant in demonstrating how an otherwise able parent would continue to make poor choices which ultimately resulted in harm to the children;

(c) SCDSS vs. Tina Hagy et. al. This case was significant in that it involved abuse and neglect of children by several different parties and involved at trial the introduction of otherwise hearsay testimony from the children under South Carolina Code Section 19-1-180, which was heavily litigated and opposed;

(d) In re: Heinz Schreitmuller. This probate court case involved an elderly, vulnerable adult with a host of mental health issues and lack of ability to live independently. The case is significant in that the adult was a citizen of another country who had been in this country illegally for many years, and refused to return to his native country. The contested issue centered around whether the German government, U.S. government, or State of South Carolina would ultimately be responsible for his care, given his lack of resources and infirm condition. There was also disagreement as to which state agency would have primary responsibility for services and placement. Mr. Schreitmuller was ultimately placed into a local nursing home facility, and, much to everyone’s surprise, after the conclusion of the litigation, voluntarily left this country;

(e) SCDSS vs. Jane Doe. This case was significant in that it involved abandonment of an infant under “Daniel’s law”, a safe harbor provision allowing a parent of a newborn to abandon an infant at a hospital or similar location without fear of prosecution. Procedure under this statute required press releases, cooperation with law enforcement and hospital personnel, and ultimately termination of parental rights and adoption for the child.

The following is Mr. Phillips’s account of the civil appeals he has personally handled:

(a) Kalchthaler vs. Workman, 316 S. C. 499, 450 S.E. 2d 621 (Ct. App. 1994);

(b) Patterson vs. Reid, 318 S.C. 183, 456 S.E. 2d 436 (Ct. App. 1995);

(c) SCDSS vs. Walter, 369 S.C. 384, 631 S.E. 2d 913 (Ct. App. 2006).

Mr. Phillips’s reported that he has not personally handled any criminal appeals.

(9) Judicial Temperament:

The Commission believes that Mr. Phillips’s temperament would be excellent.

(10) Miscellaneous:

Mr. Phillips is married to Tammy Ensor Phillips. He has four children.

Mr. Phillips reported that he was a member of the following bar associations and professional associations:

(a) South Carolina Bar;

(b) Alabama Bar.

Mr. Phillips provided that he was a member of the following civic, charitable, educational, social, or fraternal organizations:

(a) Boy Scouts of America (Troop 9- Buncombe Street UMC-Adult Leader)(Reedy Falls District-Eagle Scout Review Board);

(b) Alliance for Quality Education (supports public education in Greenville Co.);

(c) A Child’s Haven (therapeutic day care provider for abused/neglected children) (board member);

(d) Buncombe Street United Methodist Church Child Development Center (board member);

(e) Westminster Presbyterian Church Weekday School (board member).

**The Upstate Citizens Committee found Mr. Phillips to be “Qualified” for eight of the nine evaluative criteria: constitutional qualifications, ethical fitness, professional and academic ability, character, reputation, physical health, mental stability, and experience. The committee also found Mr. Phillips “Well-Qualified” in regards to judicial temperament.**

(11) Commission Members’ Comments:

The Commission commented that Mr. Phillips’ excellent, well-tempered demeanor would assist in making him a good family court judge. They noted his dedicated public service as a DSS attorney.

(12) Conclusion:

The Commission found Mr. Phillips qualified and nominated him for election to the Family Court.

**William Marsh Robertson**

**Family Court, Thirteenth Judicial Circuit, Seat 2**

**Commission’s Findings: QUALIFIED AND NOMINATED**

(1) Constitutional Qualifications:

Based on the Commission’s investigation, Mr. Robertson meets the qualifications prescribed by law for judicial service as a Family Court judge.

Mr. Robertson was born in 1963. He is 46 years old and a resident of Greenville, South Carolina. Mr. Robertson provided in his application that he has been a resident of South Carolina for at least the immediate past five years and has been a licensed attorney in South Carolina since 1988.

(2) Ethical Fitness:

The Commission’s investigation did not reveal any evidence of unethical conduct by Mr. Robertson.

Mr. Robertson demonstrated an understanding of the Canons of Judicial Conduct and other ethical considerations important to judges, particularly in the areas of ex parte communications, acceptance of gifts and ordinary hospitality, and recusal.

Mr. Robertson reported that he has not made any campaign expenditures.

Mr. Robertson testified he has not:

(a) sought or received the pledge of any legislator prior to screening;

(b) sought or been offered a conditional pledge of support by a legislator;

(c) asked third persons to contact members of the General Assembly prior to screening.

Mr. Robertson testified that he is aware of the Commission’s 48-hour rule regarding the formal and informal release of the Screening Report.

(3) Professional and Academic Ability:

The Commission found Mr. Robertson to be intelligent and knowledgeable. His performance on the Commission’s practice and procedure questions met expectations.

Mr. Robertson described his past continuing legal or judicial education during the past five years as follows:

Conference/CLE Name Date

(a) Greenville County Bar Year-end Conference 02/13/09;

(b) 2008 S.C. Family Court Bench/Bar 12/05/08;

(c) Hot Tips From the Coolest Domestic Law Practitioners 09/19/08;

(d) Lawyer Communications as Officers of the Court

and Drug Testing for Family Court Cases 02/26/08;

(e) 2007 S.C. Family Court Bench/Bar 12/07/07;

(f) Hot Tips from The Coolest Domestic Practitioners 09/21/07;

g) Attorneys Ethics in Negotiations 02/21/07;

(h) Sidebar: Family Law Case Update 01/19/07;

(i) Criminal and Civil Law Updates 12/19/06;

(j) S.C. Family Court Bench/Bar 12/08/06;

(k) Ethical Dilemmas for Advocates and Nuetrals in ADR 12/27/05;

(l) Nuts & Bolts of Permanency Planning Hearings and

Termination of Parental Rights 12/27/05;

(m) S.C. Family Court Bench/Bar 12/02/05;

(n) Hot Tips from the Coolest Domestic Practitioners 09/23/05;

(o) 2004 S.C. Family Court Bench/Bar 12/03/04;

(p) Ethical Considerations & Pitfalls for the Family Court Lawyer 12/01/04;

(q) Hot Tips from the Coolest Family Law Practitioners 09/24/04;

(r) Revised Lawyer Oath 09/10/04.

Mr. Robertson reported that he has taught the following law-related courses:

(a) Lecturer, Domestic Practice, Hot Tips from the Experts, 1995, “Pentente Lite (Bifurcated) Divorces: Obtaining a Divorce Before the Final Order is Issued”;

(b) Lecturer, Domestic Practice, Hot Tips from the Experts, 1996, “Issues and Strategies surrounding the 270-Day “Case-Striking” Rule”;

(c) Lecturer, Domestic Practice, Hot Tips from the Experts, 1998, “The Alimony Payor’s Right to Retire.

Mr. Robertson reported the following:

“I have not published any books or articles. I did, however, serve on the Editorial Board for the following two books written by Roy T. Stuckey: Marital Litigation in South Carolina: Substantive Law, 3rd Ed.(S.C. Bar – CLE Division 2001*)* and Marriage and Divorce Law in South Carolina: A Layperson’s Guide (S.C. Bar – CLE Division 2001).”

(4) Character:

The Commission’s investigation of Mr. Robertson did not reveal evidence of any founded grievances or criminal allegations made against him. The Commission’s investigation of Mr. Robertson did not indicate any evidence of a troubled financial status. Mr. Robertson has handled his financial affairs responsibly.

The Commission also noted that Mr. Robertson was punctual and attentive in his dealings with the Commission, and the Commission’s investigation did not reveal any problems with his diligence and industry.

(5) Reputation:

Mr. Robertson reported that his Martindale-Hubbell rating is AV.

(6) Physical Health:

Mr. Robertson appears to be physically capable of performing the duties of the office he seeks.

(7) Mental Stability:

Mr. Robertson appears to be mentally capable of performing the duties of the office he seeks.

(8) Experience:

Mr. Robertson was admitted to the South Carolina Bar in 1988.

He gave the following account of his legal experience since graduation from law school:

(a) 1988 through 1990: Lewis, Lide, Bruce, and Potts, Columbia, S.C. I was an associate in this law firm and practiced in a wide array of areas but with an emphasis on real estate law;

(b) 1990 through 1995: Robertson and Robertson, PA, Greenville, S.C. – I practiced for this five-year stretch in a two-attorney partnership with my father, W.F. Robertson III. Our firm practiced exclusively in the area of family law;

(c) 1996 – 2009: Since the retirement of my father, I have continued practicing exclusively in the area of family law, either in sole practice or in the following two-attorney partnerships: Robertson & Quattlebaum, LLC; Robertson & Coleman, LLC; and currently, Robertson & Hodges, LLC.

Mr. Robertson further reported:

Equitable Division of Property: Over my 18 years of exclusive family law practice, I have personally handled an estimated 1500 domestic relations cases. Of that amount, a high percentage has involved issues of equitable division. I have represented a wide range of clients, ranging from impoverished individuals with little or no net worth to multimillionaires with extremely complex marital estates. I have handled many cases in which I have been required work hand-in-hand with experts in the areas of taxation and business valuation, as well appraisers of a variety of property classifications including both real and personal property. I have questioned such experts in trial on both direct and cross-examination. I have drafted nearly every imaginable type of legal document involving equitable division, including motions, affidavits, pleadings, discovery documents, orders, memorandums of law, qualified domestic relations orders (QDRO’s), and appellate briefs. In addition, as a prerequisite to my induction as a Fellow in the American Academy of Matrimonial Lawyers, I was required to pass rigorous national and state examinations on the more complex aspects of equitable division, including sections on business valuation, defined contribution and defined benefit retirement plans, QDRO’s, ERISA, federal taxation, and bankruptcy;

Child Custody: I have handled a substantial number of contested child custody cases, many of which have proceeded to lengthy and hard-fought trials on the merits. I have successfully represented many mothers and many fathers in these cases, as well as grandparents and other interested parties. I have handled cases involving relocation issues, interstate custody disputes, and cases with international custody concerns. I have served in the capacity as guardian ad Litem for minor children, and have acted as mediator in dozens of contested custody/visitation cases. Through my role in these cases, I have gained vast expertise in this state’s statutory and case law touching on all areas of child custody, as well as related matters of visitation, paternity, parental rights termination, child removal, modification, and child support. I have likewise achieved expertise in evidentiary, procedural, and jurisdictional matters relevant to child custody and placement disputes. Additionally, the comprehensive exams I passed in the application process for fellowship into the American Academy of Matrimonial Lawyers included sections on the most technical and complex areas of child custody law, including the Uniform Child Custody Jurisdiction Act (UCCJA), the Parental Kidnapping Prevention Act (PKPA), and the Hague Convention on International Child Abduction;

Abuse and Neglect: Although my experience in this area is more limited than in other areas of family practice, I have handled a number of abuse and neglect cases over the years, primarily through SCACR Rule 608 appointments. I have represented the parents of children for whom removal is sought, and have also served as the Guradian ad Litem for abused or neglected children;

Juvenile Justice: My involvement in these cases has been rare. However, given my widespread experience in other children’s issues in family court, as well as my willingness and proven ability to learn new subject matter, I am quite confident that I can bring myself completely up to speed in this area of law before assuming the bench.

Mr. Robertson reported the frequency of his court appearances during the past five years as follows:

(a) Federal: None;

(b) State: Frequent.

Mr. Robertson reported the percentage of his practice involving civil, criminal, and domestic matters during the past five years as follows:

(a) Civil: 0%;

(b) Criminal: 0%;

(c) Domestic: 100%.

Mr. Robertson reported the percentage of his practice in trial court during the past five years as follows:

(a) Jury: 0%;

(b) non-jury: 100%.

Mr. Robertson provided that he most often served as sole counsel.

The following is Mr. Robertson’s account of his five most significant litigated matters:

(a) Miller vs. Miller, 99-DR-23-4733. This change of custody action was prompted by a custodial parent’s relocation. I successfully represented the Plaintiff/father of two children, ages 7 and 4. Only a few months before filing, the parties had settled the contested issue of child custody as part of their overall divorce agreement. The father had agreed to concede primary placement of the children to the mother under the condition that he would receive an extraordinarily liberal visitation schedule. One day after the divorce, the mother accepted a marriage proposal to a man she had just recently met over the internet. The two married a month later and almost immediately relocated from Greenville to McClellanville, more than 250 miles away. We filed for change of custody. Following a three day trial featuring multitudes of exhibits and witness testimony, the court granted my client full custody of the children. The judge made this decision notwithstanding a recommendation to the contrary by the Guardian ad Litem. The significant elements of this decision were: (i) the impact in child custody determinations of poor judgment by a custodial; (ii) the importance of environmental factors in child custody determinations; and (iii) the subordinate role of guardian ad Litem recommendations in child custody determinations;

(b) Ringler vs. Ringler, 98-DR-23-2362. This Greenville County case is significant for many reasons, not the least of which goes to its longevity and convolutedness. I represented the husband beginning in 1996. Both parties were retired at the time of filing. The case was ultimately filed in 1998, and the primary contested issues were divorce (my client alleged adultery by wife), alimony, and equitable division of a marital estate that included real and personal property and retirement benefits already in pay status. After a lengthy trial in 1999, a final order was issued in early 2000. The Court granted a divorce on no-fault grounds, denied the wife’s alimony request, and divided the marital estate equally. Post-trial motions for consideration quickly followed. Wife then appealed. That appeal would involve approximately two dozen appellate motions, petitions, and returns, along with corresponding orders. Ultimately, my client and I were successful in having the appeal dismissed with an award of attorney’s fees, but not until nearly six years had elapsed from the date my involvement in the case had begun;

(c) Burch vs. Anderson, 97-DR-42-3322. This was a contested child custody case in Spartanburg County. I represented the Plaintiff/Mother, who initiated the action seeking only an order of child support. The father counterclaimed for custody based primarily on various accusations of unfitness on the part of the mother, including allegations of drug addiction and educational neglect. After a two-day trial, the presiding judge awarded my client primary placement of the child notwithstanding a recommendation by the Guardian ad Litem that custody be awarded to the father. This case provides a good example of these principles: (i) the “primary caretaker” standard remains an important factor in child custody determinations, particularly where a previously uninvolved father decides to seek custody only after being served with a complaint seeking child support; (ii) a child’s need for stability and consistency may outweigh allegations of parental misconduct (i.e., drug use) that occurred several years before the custody action was filed; and (iii) while a guardian ad Litem is a useful tool in a contested custody case, the guardian’s recommendation is to aid, not direct the Court, and the ultimate custody decision lies with the trial judge.;

(d) Theisen vs. Theisen, 99-DR-23-2818. This was an extremely involved domestic relations case featuring extremely high net worth parties and the involvement of a virtual “who’s who” of the top family court attorneys and experts in the state. I have chosen to include this case even though it was ultimately settled prior to a merits trial, simply because this case involved a magnified view of nearly every imaginable issue that family courts deal with in private litigation: fault-based divorce allegations, alcoholism and other “marital misconduct”, contested child custody, contested visitation, contested child support beyond Guidelines limitations, contested alimony, equitable division of marital property (including substantial closely held business interests, retirement benefits, financial accounts, and real estate), transmutation, insurance matters, and attorneys fees. I was lead counsel for the Wife/Defendant. After many months of intense litigation that included countless motions, rules, interlocutory orders, depositions, written discovery and expert analysis, the case was settled at the conclusion of two full days of mediation.

(e) Patsie C. Walker vs. Kenneth C. Walker, 94-DR-04-138: Following an Anderson County Family court order granting my client, the plaintiff/wife, a divorce, alimony, and an award of 50% of the net marital estate, the husband appealed. I represented the wife on appeal. The case was remanded back to the trial court, where ultimately the original order was upheld subject to a slight alimony reduction. The appellate opinion was unpublished, but the case was significant on the following points of law: (i) An award of alimony is appropriate where a 15-year marriage is destroyed by a husband’s adulterous affair; (ii) husband’s effort to bar wife from alimony based on allegation of adultery will fail where the evidence of infidelity is not clear and convincing; and (iii) an award of 50% if the marital estate is proper notwithstanding the fact that the alimony was based on part on the discrepancy in the parties’ actual incomes and earning capacities.

The following is Mr. Robertson’s account of the civil appeals he has personally handled:

(a) Kenneth C. Walker, Appellant vs. Patsie C. Walker, Respondent

[see answer (e) above];

(b) Roberta D. Ringler, Appellant vs. Jack W. Ringler, Respondent

[see answer (b) above].

Mr. Robertson reported that he has not personally handled any criminal appeals.

Mr. Robertson reported “no” to the question regarding any unsuccessful judicial candidacies. However, Mr. Robertson was a candidate in Fall 2008 for the Family Court, Thirteenth Circuit, Seat 6, when he was found qualified an nominated, and in Spring 2008 for the Family Court, Thirteenth Circuit, Seat 3, when he was found qualified and nominated. For both screenings he withdrew prior to each election.

(9) Judicial Temperament:

The Commission believes that Mr. Robertson’s temperament would be excellent.

(10) Miscellaneous:

Mr. Robertson is married to Barbara Kessenich Robertson. He has three children.

Mr. Robertson reported that he was a member of the following bar associations and professional associations:

(a) Greenville County Bar Association;

(b) South Carolina Bar (Family Law Section);

(c) American Academy of Matrimonial Lawyers.

Mr. Robertson provided that he was a member of the following civic, charitable, educational, social, or fraternal organizations:

(a) Christ Episcopal Church (Youth basketball coach);

(b) Greenville Little League (Youth baseball coach);

(c) Greenville Country Club;

(d) DeBordieu Club;

(e) Poinsett Club.”

Mr. Robertson further reported:

Having practiced exclusively in the area of family law for over 17 years, I have appeared before dozens of different family court judges, each exuding a unique nature, style, and demeanor. Through this process, I have become acutely aware that judges truly are the product of their backgrounds and life experiences. If honored with the opportunity to serve as a family court judge, my primary goal would be to follow in the footsteps of the judges I have admired most in my career. Those judges share a combination of qualities and traits that are quite simple in concept, yet perhaps less simple to achieve. They project high intellect and reason, and demonstrate a thorough comprehension of family law and procedure grounded on many years of experience in the field. They are diligent and industrious. They are analytical yet compassionate, with a keen sense of fairness. They are inflexibly honest. Perhaps most compelling, they are dedicated to our societies’ families, and to the laws that have developed to preserve and protect our families, especially our children. If elected to serve on the family court bench, I am confident that through my own life experiences, I have the foundation to exemplify these qualities.

Knowledge and Experience: I began learning about law and the legal profession at an early age. My father, William F. Robertson III, was a distinguished family court lawyer, a past president of the South Carolina Trial Lawyers Association, and one of the earliest Fellows in the American Academy of Matrimonial Lawyers. While a student, I worked after school and during summers for my father’s law firm as a runner and later as a law clerk. I once wrote an appellate brief in a child custody case that my father successfully handled. In my third year of law school while taking a Domestic Relations class, I came to recognize that I had an affinity toward family law, and that I would ultimately dedicate my career to that field of law. Following law school, I remained in Columbia for two years to gain experience with an outside law firm, before returning to Greenville in June of 1990 to go into family law practice with my father. Since that date, I have handled an estimated 1500 family law cases, and to the best of my recollection have not handled a single case that did not fall under the jurisdiction of the family court. In the earlier years, I represented a large number of financially disadvantaged clients. As my career progressed, my practice steadily moved toward more complex family court litigation involving higher net-worth clients. In recent years, I have chosen to focus the majority of my practice on mediation of family law cases. This career, which has been specialized in subject matter yet diverse in clientele, has given me the opportunity to fully master this important area of law. With an extensive background as a counselor, litigator, and mediator in the family law arena, I consider myself uniquely qualified to take on the role of family court judge.

Honesty: As far back as I can remember, I have felt a strong sense of honesty, and a certain disdain for those that do not. My three sisters and I learned integrity from our parents, who have now been married for more than 45 years. In college, I had the good fortune to attend Washington & Lee University, an institution nationally renowned for its simple but stringent honor system. At W&L, students are taught on day one that there will be no lying, no cheating, and no stealing. Any violation of any of these principals, no matter how small or seemingly inconsequential, results in expulsion. In four years, I never personally observed or experienced a single violation of the Honor Code. I was allowed to schedule my own exams and take them when and where I chose. I was able to leave valuable items unattended and unsecured without fear of theft. I was able to accept the word of my fellow students at face value. This environment of honesty instilled in me a sense of morality, fairness and trustworthiness that has carried on in all aspects of my life.

Industriousness and Diligence: I have always been a person with tremendous self-discipline and motivation -- traits that have enabled me to achieve the goals I have set for myself along the way. As a high school student, my work ethic enabled me to gain early-decision acceptance to an excellent university. In college, I pushed myself against tremendous competition to graduate cum laude, leading to my acceptance into law school. After a graduating law school and passing the bar exam, I entered private practice where I have achieved professional success, perhaps best evidenced by my 1999 induction as a Fellow in the American Academy of Matrimonial Lawyers. For most of my legal career, I have worked as a sole practitioner or in a two-person law firm. Success in the small-firm capacity requires one to be self-motivated, highly organized and efficient. These are skills that would transfer well to the family court bench.

Analytical Ability, Fairness and Compassion: My clients and colleagues alike have often complimented me on my ability to efficiently and effectively solve problems by breaking a set of facts down into its constituent parts to get to the heart of the matter, and from there to arrive at a logical, often creative solution. I have likewise been praised for my compassion and keen sense of fairness. After more than fifteen years in the trenches of family court litigation, I shifted the focus of my legal practice in recent years to mediation. This decision was made in large part to take advantage of my unique ability to quickly and comprehensively analyze factual circumstances, apply my extensive knowledge of the law to the facts and issues, and to facilitate a settlement from a neutral perspective, using my skills as a negotiator and communicator as well as my sense of compassion and fairness. This is not unlike what a family court judge is charged to do. I have thrived as a mediator, assisting in the settlement of dozens of highly contested cases. I am confident that I would thrive to an even greater degree as a family court judge.

Dedication to Family: More than anything else, I am a “family man.” I grew up in a wonderful, close-knit family, and I am now blessed with an incredible family of my own. I have been married to my wife, Barbara, for nearly twenty years. Our three children, ages 16, 13, and 10, are my price and joy. All three are exceptional human beings – intelligent, motivated, diversely talented, and genuinely kind-hearted. My success as a parent far exceeds any success I have achieved in any other capacity in my life, and given a choice I would not have it any other way. In many ways, being a family court lawyer has made me a better husband and father. Seeing first-hand the problems that other, less fortunate families must face helps me to better appreciate my blessings, and motivates me to strive to continually improve as both a spouse and parent. Likewise, being a husband and father has made me a better family court lawyer, and would no doubt prove invaluable to me as a family court judge in my quest to protect the rights and interests of all family members of this state.

**The Upstate Citizen’s Committee on Judicial Qualification found Mr. Robertson to be “Well-Qualified” for each of the nine evaluative criteria: constitutional qualifications, ethical fitness, professional and academic ability, character, reputation, physical health, mental stability, experience, and judicial temperament.**

(11) Commission Members’ Comments:

The Commission commented that Mr. Robertson has an exceptional reputation in his community as a matrimonial lawyer, which is evidenced by his membership in the American Academy of Matrimonial Lawyers. They noted that his keen intellect would be an asset on the Family Court bench.

(12) Conclusion:

The Commission found Mr. Robertson qualified and nominated him for election to the Family Court.

**Michael Don Stokes**

**Family Court, Thirteenth Judicial Circuit, Seat 2**

**Commission’s Findings: QUALIFIED, BUT NOT NOMINATED**

(1) Constitutional Qualifications:

Based on the Commission’s investigation, Judge Stokes meets the qualifications prescribed by law for judicial service as a Family Court judge.

Judge Stokes was born in 1966. He is 43 years old and a resident of Travelers Rest, South Carolina. Judge Stokes provided in his application that he has been a resident of South Carolina for at least the immediate past five years and has been a licensed attorney in South Carolina since 1991.

(2) Ethical Fitness:

The Commission’s investigation did not reveal any evidence of unethical conduct by Judge Stokes.

Judge Stokes demonstrated an understanding of the Canons of Judicial Conduct and other ethical considerations important to judges, particularly in the areas of ex parte communications, acceptance of gifts and ordinary hospitality, and recusal.

Judge Stokes reported that he has not made any campaign expenditures.

Judge Stokes testified he has not:

(a) sought or received the pledge of any legislator prior to screening;

(b) sought or been offered a conditional pledge of support by a legislator;

(c) asked third persons to contact members of the General Assembly prior to screening.

Judge Stokes testified that he is aware of the Commission’s 48-hour rule regarding the formal and informal release of the Screening Report.

(3) Professional and Academic Ability:

The Commission found Judge Stokes to be intelligent and knowledgeable. His performance on the Commission’s practice and procedure questions met expectations.

Judge Stokes described his past continuing legal or judicial education during the past five years as follows:

Conference/CLE Name Date

(a) STOP Violence Against Women 4/1/02;

(b) Magistrate Mandatory School 10/18/02;

(c) SCSCJA Convention/Seminar 9/4-9/8/02;

(d) Seminar on Civil Law 7/22/03;

(e) The Probate Process 8/22/03;

(f) SCSCJA Convention Seminar 9/4/03;

(g) Magistrate Mandatory School 10/31/03;

(h) Family Law in S.C. 12/15/03;

(i) Judicial Oath of Office 11/19/04;

(j) Magistrate Mandatory School 11/19/04;

(k) SCSCJA Legislative Reception And Seminar 3/9/05;

(l) Family Court Judges Seminar 12/2/05;

(m) Magistrate Mandatory School 11/03/06;

(n) SCSCJA Staff Judges Seminar 2/14/07;

(o) SCSCJA Legislative Reception And Seminar 3/7/07;

(p) Advanced Studies Seminar 5/14-15/07;

(q) SCSJA Summer Seminar 7/2007;

(r) Domestic Abuse Seminar 10/2007;

(s) Domestic Violence 8/23/07;

(t) SCSCJA Convention/Seminar 9/6/07;

(u) Magistrate Mandatory School 11/2/07;

(v) SCSCJA Charleston School 7/28/08;

(w) Magistrate Mandatory School 11/07/08;

(x) SCSCJA Staff/Judge Convention 2/12/09;

(y) SCSCJA Legislative Seminar 3/4/09.

Judge Stokes reported that he has not taught or lectured at any bar association conferences, educational institutions, or continuing legal or judicial education programs.

Judge Stokes reported that he has published the following:

(a) Comment, Logical Relationship Test for Computing Counterclaims Adopted, South Carolina Law Review, Vol. 2, number 1, pp. 188-191(Autumn 1990);

(b) Comment, Volunteers Ineligible for Workers’ Compensation: Subject Matter Jurisdiction over Compensation Agreements Unsettled, South Carolina Law Review, Vol. 42, number 1, pp. 273-275 (Autumn 1990).

(4) Character:

The Commission’s investigation of Judge Stokes did not reveal evidence of any founded grievances or criminal allegations made against him. The Commission’s investigation of Judge Stokes did not indicate any evidence of a troubled financial status. Judge Stokes has handled his financial affairs responsibly.

The Commission also noted that Judge Stokes was punctual and attentive in his dealings with the Commission, and the Commission’s investigation did not reveal any problems with his diligence and industry.

(5) Reputation:

Judge Stokes reported that his last available Martindale-Hubbell rating was BV.

(6) Physical Health:

Judge Stokes appears to be physically capable of performing the duties of the office he seeks.

(7) Mental Stability:

Judge Stokes appears to be mentally capable of performing the duties of the office he seeks.

(8) Experience:

Judge Stokes was admitted to the South Carolina Bar in 1991.

He gave the following account of his legal experience since graduation from law school:

(a) 1991-96, Associate, Chapman, Harter & Groves, P.A. General practice focusing primarily on family law, real estate, insurance defense, and workers’ compensation appeals;

(b) 1996-2000, Sole practitioner, Greenville, South Carolina. General practice focusing primarily on family law, and real estate;

(c) 2000-01, Partner, Mims & Stokes, Greer, South Carolina. General practice focusing on family law, real estate, criminal and probate;

(d) 2001-05, Sole practitioner, Greer, South Carolina. General practice focusing on family law, real estate, criminal and probate;

(e) 2005-present, Partner, Stokes & Southerlin, P.A. General Practice focusing on family law, real estate, criminal and probate;.

(f) 1996-present, Greenville County Magistrate Judge. Appointment originally for 20 hours per week. Since 2004 my assignment is for 35 hours per week.

Judge Stokes further reported:

I have maintained a practice in Family Court for the entire time I have been an attorney. Most of my cases have involved divorce and property distribution along with child custody. As with most attorneys, I have settled approximately 95% of my cases. I attribute this to being able to explain the law that applies well to the client, so that settlement can be realistically pursued for the client. The law in these areas is really quite settled and a good practitioner should be able to predict with reasonable accuracy what decision a court might render. Also, settlements have been facilitated in Greenville because this county has mandatory mediation and I have always tried to engage capable mediators. If a case does not settle in mediation, then by that stage I am prepared to try the case.

In the adoption area, my office has not actively sought cases; however, I have done them for established clients. I have undertaken private adoptions, step-parent adoptions, and DSS adoptions.

Most of my abuse and neglect cases have been DSS related. Our office has a policy that we actually handle the DSS cases assigned to us and rarely hire another attorney to take our place. Therefore, over the years, I have had exposure to multiple cases involving abuse, neglect, and termination of parental rights. As a private attorney, I have been involved in several private actions involving termination of parental rights.

I have never had the opportunity to handle a juvenile case. However, I have reviewed the procedure in preparing for this process, I have litigated several criminal matters, and as a magistrate I have heard hundreds of criminal matters so I feel comfortable with the underlying criminal law and I think I am competent to apply the process in a juvenile case in Family Court.

Judge Stokes reported the frequency of his court appearances as follows:

(a) Federal: 0%;

(b) State: Attorney, 3-6 per month average; Magistrate daily.

Judge Stokes reported the percentage of his practice involving civil, criminal, and domestic matters as follows:

(a) Civil: 45%;

(b) Criminal: 10%;

(c) Domestic: 45%.

Judge Stokes reported the percentage of his practice in trial court as follows:

(a) Jury: 5%;

(b) Non-jury: 95%.

Judge Stokes provided that he most often served as sole or chief counsel.

The following is Judge Stokes’s account of his five most significant litigated matters:

(a) Knight v. Knight. Family Court case involving a long term marriage, significant real property in two states and a small business;

(b) Bishop v. Bishop. Family Court case involving a long term marriage, significant debt, bankruptcy issues, and several contempt proceedings;

(c) Marion v. Marion. Family Court case involving real and personal property issues and significant Quadro issues;

(d) Wade v. Wade. Family Court case involving allegations of abuse and property issues;

(e) EmTec eviction. Case heard as a Magistrate Judge involving the eviction of an entire manufacturing plant located in Travelers Rest. The case involved multiple parties from various states and the amount in controversy was well into the six-figure range.

The following is Judge Stokes’s account of the civil appeals he has personally handled:

(a) Mullinax v. Winn-Dixie Stores, Inc., 318 S.C. 431, 458 S.E.2d 76 (Ct. App. 1995);

(b) Seeger v. Wrenn Handling Company, Employer, and Farmington Casualty Company, Carrier, Unpublished opinion of Court of Appeals, 1999.

Judge Stokes reported that he has not personally handled any criminal appeals.

Judge Stokes reported that he has held the following judicial office:

“I was appointed a Greenville County Magistrate Judge in November 1996 and have served continuously since. The criminal jurisdiction is offenses not exceeding a fine of $500 (plus assessments) or 30 days imprisonment, or both. The civil jurisdiction is matters where the amount in controversy does not exceed $7500.00. The jurisdiction is unlimited in landlord/tenant matters.”

Judge Stokes provided the following list of his most significant orders or opinions:

(a) EmTec eviction. This case involved the eviction of a manufacturing plant in Travelers Rest, South Carolina. It involved multiple parties and the amount in controversy was well into the six-figure range;

(b) I handled the criminal case as a magistrate when a fire escaped and burned a portion of Paris Mountain. The case is significant in that I had to handle the media attention given to the case;

(c) Most civil cases at the magistrate level are without significance on their own to anyone other than the parties directly involved. However, they are significant as a group here because of the shear volume of cases I have been called on to decide which is now in the range of 2000 to 2500 cases both bench trials and jury trials;

(d) Most criminal cases standing alone at the magistrate level are without great significance to anyone other than the victims and defendants involved and their families. However, again as with the civil cases, they are significant here as a group because the volume of cases I have decided now exceeds a conservative estimate of one thousand. This does not include preliminary hearing decisions. I have also during most of my tenure in office handled the central court that hears the county code cases for the whole of Greenville County;

(e) I believe the most significant fact of my time on the Magistrate bench is that, upon belief, I have been appealed no more than 8 to 10 times in nearly 13 years as a magistrate.

Judge Stokes reported the following regarding his employment while serving as a judge:

“I continued my practice of law while a continuing part-time judge from 1996 to the present at the firms listed above. I have always been my own supervisor.”

Judge Stokes further reported the following regarding unsuccessful candidacies:

“In the Family Court elections for May 2008 and January 2009 I was not successful. On both occasions I was found qualified, but not nominated.”

(9) Judicial Temperament:

The Commission believes that Judge Stokes’s temperament would be fine.

(10) Miscellaneous:

Judge Stokes is married to Rachel Elizabeth Few Stokes. He has three children.

Judge Stokes reported that he was a member of the following bar associations and professional associations:

(a) South Carolina Bar;

(b) Greenville County Bar;

(c) South Carolina Summary Court Judges Association (Life Member).

Judge Stokes provided that he was a member of the following civic, charitable, educational, social, or fraternal organizations:

(a) Boy Scouts of America. Offices: Den Leader, Assistant Cub master, Assistant Scoutmaster, Assistant District Commissioner, Scoutmaster;

Honors/awards: Eagle Scout with Silver Palm, Vigil Honor, Webelos Den Leader of the Year, 2007;

(b) Blue Ridge Ruritan Club: Secretary, Vice President, President, Director, Zone Governor;

(c) Few’s Chapel United Methodist Church.

Offices: Chairman, Administrative Council, Lay Leader, Trustee;

(d) Freemason. Bailey Lodge, Greer, South Carolina: No offices held;

(e) Scottish Rite. Greenville, South Carolina: No offices held;

(f) Commerce Club. Greenville, South Carolina: No offices held.

**The Upstate Citizen’s Committee on Judicial Qualification found that Judge Stokes is “Qualified” for each of the nine evaluative criteria: constitutional qualifications, ethical fitness, professional and academic ability, character, reputation, physical health, mental stability, experience, and judicial temperament. Regarding judicial temperament, the Committee reported, “The committee has again been given numerous comments regarding this candidate’s temperament. As a sitting magistrate, it has been said that he has, at times, has been rude and overbearing. The candidate responded during our interview that he could not understand why we were receiving these types of comments. He contends that he has never had any type of issue with his temperament.”**

(11) Commission Members’ Comments:

The Commission commented that Judge Stokes has ably practiced law for 18 years and served as a part-time magistrate for 13 years. They noted his active public service in his local community.

(12) Conclusion:

The Commission found Judge Stokes qualified, but not nominated, to serve as a Family Court judge.

**Alvin D. Johnson**

**Family Court, Thirteenth Judicial Circuit, Seat 4**

**Commission’s Findings: QUALIFIED AND NOMINATED**

(1) Constitutional Qualifications:

Based on the Commission’s investigation, Judge Johnson meets the qualifications prescribed by law for judicial service as a Family Court judge.

Judge Johnson was born in 1961. He is 48 years old and a resident of Pickens, South Carolina. Judge Johnson provided in his application that he has been a resident of South Carolina for at least the immediate past five years and has been a licensed attorney in South Carolina since 1986.

(2) Ethical Fitness:

The Commission’s investigation did not reveal any evidence of unethical conduct by Judge Johnson.

Judge Johnson demonstrated an understanding of the Canons of Judicial Conduct and other ethical considerations important to judges, particularly in the areas of ex parte communications, acceptance of gifts and ordinary hospitality, and recusal.

Judge Johnson reported that he has not made any campaign expenditures, “except for the postage to mail [my application] package to the Commission.”

Judge Johnson testified he has not:

(a) sought or received the pledge of any legislator prior to screening;

(b) sought or been offered a conditional pledge of support by a legislator;

(c) asked third persons to contact members of the General Assembly prior to screening.

Judge Johnson testified that he is aware of the Commission’s 48-hour rule regarding the formal and informal release of the Screening Report.

(3) Professional and Academic Ability:

The Commission found Judge Johnson to be intelligent and knowledgeable. His performance on the Commission’s practice and procedure questions met expectations.

Judge Johnson described his past continuing legal or judicial education during the past five years as follows:

Conference/CLE Name Date

(a) S.C. Bar-Family Law Section, 3.00 hrs. January 21, 2005;

(b) FCJA-Family Court Judges’ Conference April 27, 2005;

(c) SCCA-Annual Judicial Conference August 24, 2005;

(d) S.C. Bar-S.C. Family Court Bench/Bar December 2, 2005;

(e) S.C. Bar-Family Law Section January 27, 2006;

(f) FCJA-Family Court Judges' Conference April 26, 2006;

(g) CLO-Mini Summit on Justice for Children August 22, 2006;

(h) SCCA-Annual Judicial Conference August 23, 2006;

(i) S.C. Bar-Family Court Bench/Bar December 1, 2006;

(j) S.C. Bar-Family Law Section January 26, 2007;

(k) SCCA-Annual Judicial Conference August 22, 2007;

(l) S.C. Bar-Family Court Bench/Bar December 7, 2007;

(m) S.C. Bar-Family Law Section January 25, 2008;

(n) Family Court Judges Conference April 24, 2008;

(o) SCCA-Annual Judicial Conference August 20, 2008;

(p) S.C. Bar-Family Court Bench/Bar December 5, 2008;

(q) S.C. Bar-Family Law Section January 23, 2009;

(r) FCJA-Family Court Judges' Conference April 22, 2009.

Judge Johnson reported that he has taught the following law-related courses:

(a) Greenville Bar CLE - December 2006. Lecture on significant family court rulings in the past year;

(b) S.C. Bar - Bench/Bar Conference - December 2007. Lecture on drafting effective orders;

(c) I have regularly lectured to the Pickens County GAL Program in child abuse matters.

Judge Johnson reported that he has not published any books or articles.

(4) Character:

The Commission’s investigation of Judge Johnson did not reveal evidence of any founded grievances or criminal allegations made against him. The Commission’s investigation of Judge Johnson did not indicate any evidence of a troubled financial status. Judge Johnson has handled his financial affairs responsibly.

The Commission also noted that Judge Johnson was punctual and attentive in his dealings with the Commission, and the Commission’s investigation did not reveal any problems with his diligence and industry.

(5) Reputation:

Judge Johnson reported the following regarding his rating in Martindale-Hubbell:

As a lawyer, I was listed in Martindale-Hubbell; however, I did not have a listed rating from them. I do not know the reason for my not having a rating except that they only rate attorneys occasionally and at the time of my election to the Bench; there were several attorneys in Pickens County with no rating by them. However, my law firm, to which I was a partner, had an "AV" rating.

(6) Physical Health:

Judge Johnson appears to be physically capable of performing the duties of the office he seeks.

(7) Mental Stability:

Judge Johnson appears to be mentally capable of performing the duties of the office he seeks.

(8) Experience:

Judge Johnson was admitted to the South Carolina Bar in 1986.

He gave the following account of his legal experience since graduation from law school:

(a) August 1986-February 1996, Acker, Welmaker and Johnson, P.A.

When I joined the Firm as an Associate in August of 1986, the name of the Firm was Acker, Acker, Floyd and Welmaker, P.A. I became a partner in 1990 and the name of the Firm was changed to Acker, Floyd, Welmaker and Johnson, P.A. When the Honorable Henry F. Floyd became a Circuit Judge, the Firm name was changed to Acker, Welmaker and Johnson, P.A.

At the law Firm, I was basically a trial attorney. Initially, I did about an equal amount of Civil litigation and Family Court work.

However, in the last five years of my law practice, about sixty percent (60%) of my practice, or more, has been in Family Court;

(b) On April 26, 1996 I was sworn in as the Resident Family Court Judge for Seat #4 of the Thirteenth Judicial Circuit. Since that date, I have continuously served as a Family Court Judge.

Judge Johnson reported that he has held the following judicial office:

Elected February 14, 1996, to Seat #4 of the Family Court of the Thirteenth Judicial Circuit.

Judge Johnson provided the following list of his most significant orders or opinions:

(a) State of South Carolina v. (Juvenile), Case No. 1996-JU-39-181. This was a truly tragic case. The juvenile’s father was killed by the police when he was a small child. His mother remarried and his stepfather and uncle sexually molested him for several years. Subsequently, there was a fire at the juvenile’s home and he witnessed two of his step brothers and a cousin perish in the fire. His mother suffered from major psychiatric problems and the juvenile had attempted suicide in the past. The child had received almost no counseling for his past problems. The juvenile turned to drugs to “fade out” from life. He had no other family other than his mother. The juvenile plead guilty to an aggravated assault and battery on his mother. Since the juvenile had no family other than his mother, and since a pure DJJ sentence would likely have been too short to benefit the juvenile, it was determined that a *McNaughton* evaluation and then treatment evaluation were necessary. It became clear that in order to help this young man and to do what was in his best interest, the Court ordered the DSS to become lead agency and legal custodian for the juvenile. This was ordered as it was necessary that the juvenile have proper long-term structure and psychological care. Jurisdiction was retained over this case by making the juvenile’s probation indefinite until his 18th birthday.

(b) Patricia Riley Morris v. Ronnie Dean Morris, Case No. 95-DR-23-4870. and 335 SC 525, 517 S.E.2d 720 (Court of Appeals 1999). This case involved the child support obligation of a father to two young men over the age of 18. I determined that one of the young men suffered from some mental problems but he was still able to work and hold a full time job. Thus, the father had no obligation to support this young man. However, his brother suffered from more serious psychological problems and was totally disabled as a result of these problems. I ordered the father to pay child support on this adult son. There were other issues involved in the case as well. The appellate court agreed with this decision and it has been cited in numerous other cases. The appellate court did increase the alimony award from $1,500.00 per month to $2,000.00 per month.

(c) S.C. Department of Social Services v. John Doe, Case No. 2005-DR-39-178 and 177 and Unpublished Opinion No. 2007-UP-221 (2007 Court of Appeals). This was another tragic case involving the horrible abuse of a little girl at the hand of her mother and father. The result was a five day trial to terminate the parental rights of the parents. After this lengthy trial, it was found by clear and convincing evidence that the parental rights of both parents should be terminated. A detailed 31 page order was drafted listing the significant abuse of this child and the reasons for the termination of the parental rights. The Court of Appeals affirmed this decision and specifically referred to the fully detailed order to the trial court in so doing. This child was freed for adoption by this decision. Subsequently, I presided over the adoption of this child to a loving and caring set of parents.

(d) James H. Casey v. James F. Casey, et al., Case No. 2003-DR-39-758R and Case No. 2005-DR-39-354. This case was heard for two days in October of 2008. This case involved the transfer of the parties’ business to a non-relative third party. After hearing the testimony, the court determined that this transfer was without consideration and void. As a result, the primary asset of the marriage was placed back into the marital estate and awarded to the wife.

(e) S.C. Department of Social Services v. John Doe, et. al., 369 SC 384, 631 S.E. 2d 913 (Court of Appeals 2006). This case involved the sexual molestation of child. At the trial on the merits, the Defendant requested that the proceedings be held in abeyance pending a resolution of related criminal charges against him. This request was denied and the DSS trial took place. It was determined that the Defendant did in fact sexually molest the child. The Defendant appealed stating that the trial court’s refusal to hold the action in abeyance deprived him of his equal protection and due process rights. The Court of Appeals ruled that the refusal to hold in abeyance the DSS trial did not violate the rights of the Defendant and it was fully proper for the trial DSS case involving this child to go forward.

(9) Judicial Temperament:

The Commission believes that Judge Johnson’s temperament has been and would continue to be excellent.

(10) Miscellaneous:

Judge Johnson is married to Itzel Del Carman Navarrete. He has three children.

Judge Johnson reported that he was a member of the following bar associations and professional associations:

(a) South Carolina Bar Association 1986 to presentl;

(b) Pickens County Bar Association 1986 to present--President 1990-1992.

Judge Johnson provided that he was a member of the following civic, charitable, educational, social, or fraternal organizations:

(a) I belong to the Alumni Association of North Greenville University. I have previously served two terms on the Board of Trustees for the university having been elected by the South Carolina Baptist Convention. In 2003 I received the Distinguished Alumni of the Year Award.

(b) From 2006 and 2007 I served as the Director of Baptist Men at Northside Baptist Church.

**The Upstate Citizens Committee found Judge Johnson “Well-Qualified” for each of the nine evaluative criteria: constitutional qualifications, ethical fitness, professional and academic ability, character, reputation, physical health, mental stability, experience, and judicial temperament.**

(11) Commission Members’ Comments:

The Commission commented that they were impressed by Judge Johnson’s legacy as a Family Court judge and they noted that the citizens of this state are fortunate to have him serve as a jurist.

(12) Conclusion:

The Commission found Judge Johnson qualified and nominated him for re-election to the Family Court.

**Peter Leach Fuge**

**Family Court, Fourteenth Judicial Circuit, Seat 2**

**Commission’s Findings: QUALIFIED AND NOMINATED**

(1) Constitutional Qualifications:

Based on the Commission’s investigation, Judge Fuge meets the qualifications prescribed by law for judicial service as a Family Court judge.

Judge Fuge was born in 1947. He is 62 years old and a resident of Bluffton, South Carolina. Judge Fuge provided in his application that he has been a resident of South Carolina for at least the immediate past five years and has been a licensed attorney in South Carolina since 1974.

(2) Ethical Fitness:

The Commission’s investigation did not reveal any evidence of unethical conduct by Judge Fuge.

One affidavit was filed in opposition to Judge Fuge’s candidacy by Matthew A. Gregory, Sr. The complaint arose out of a probable cause hearing in which Judge Fuge served as the presiding judge. In his affidavit, Mr. Gregory complained that Judge Fuge is willing to forgo due processes, precedent, and common decency, and acts with arrogance and rudeness to those he has prematurely judged guilty before a fair hearing, and that Judge Fuge follows improper procedures.

Judge Fuge responded that he followed the normal procedures for a probable cause hearing by only allowing testimony and witnesses recognized by court rules. Judge Fuge also stated that he was very accommodating towards the defendant in the case because she was a self-represented litigant and only took action against other persons in the court room to protect the integrity of the hearing.

The Commission carefully considered Mr. Gregory’s complaint and testimony but found the complaint was without merit. In reaching this conclusion, the Commission noted that a review of the probable cause hearing transcript revealed that Judge Fuge was very polite to the complainant and that Judge Fuge was very accommodating to the defendant. The Commission also noted that Judge Fuge handled the hearing appropriately.

Judge Fuge demonstrated an understanding of the Canons of Judicial Conduct and other ethical considerations important to judges, particularly in the areas of ex parte communications, acceptance of gifts and ordinary hospitality, and recusal.

Judge Fuge reported that he has not made any campaign expenditures.

Judge Fuge testified he has not:

(a) sought or received the pledge of any legislator prior to screening;

(b) sought or been offered a conditional pledge of support by a legislator;

(c) asked third persons to contact members of the General Assembly prior to screening.

Judge Fuge testified that he is aware of the Commission’s 48-hour rule regarding the formal and informal release of the Screening Report.

(3) Professional and Academic Ability:

The Commission found Judge Fuge to be intelligent and knowledgeable. His performance on the Commission’s practice and procedure questions met expectations.

Judge Fuge described his past continuing legal or judicial education during the past five years as follows:

Conference/CLE Name Date

(a) Estate Planning in S.C. 6/21/02;

(b) Hot Tips - Domestic (Speaker) 9/20/02;

(c) Hot Tips – Domestic (Speaker) 9/13/03;

(d) Family Law Section Mtg. – Midwinter Bar 1/23/04;

(e) Hot Tips – Domestic (speaker) 9/24/04;

(f) Revised Lawyer’s Oath CLE 10/8/04;

(g) Solo & Small Firm Section 1/20/05;

(h) Family Law Section – Midwinter Bar) 1/21/05;

(i) Young Lawyers Div. 1/22/05;

(j) 60 Tips to Build Successful Practice 4/22/05;

(k) Hot Tips – Domestic (Speaker) 9/23/05;

(l) Domestic Violence & Crim. Just. Sys. 6/9/06;

(m) Hot Tips – Domestic (Speaker) 9/22/06;

(n) Judges & Attys. Sub. Abuse & Ethics 12-1-06;

(o) Alaska at Sea CLE 8/2-5/07;

(p) SCTLA 8/2/07;

(q) Hot Tips – Domestic (Speaker) 9/21/07;

(r) 2008 Orientation School 6/4/08;

(s) 2008 Judicial Conference 8/20/08;

(t) Family Court Judges' Conference 4/22/09.

Judge Fuge reported that he has taught the following law-related courses:

(a) “Alimony”

SCTLA Annual Meeting, August 14-16, 1986;

(b) “Trends: Retirement & Pension”

S.C. Bar Annual Meeting, June 16-19, 1988;

(c) “Getting and Keeping Military Benefits”

Hot Tips from the Experts, February 1989;

(d) “Returning Military Dependants to the United States: The Survivor’s Benefits Plan in Marital Dissolution Actions”

Hot Tips from the Experts, June 1990;

(e) “1990 Alimony Statue and Other Alimony Issues”

Family Law Issues CLE, November 1990;

(f) “Other Alimony: What is it and Sequestration to Preserve Assets”

Hot Tips from the Experts, May 1992;

(g) Moderator

Mid year Meeting of the South Carolina Bar, January 24, 1997;

(h) “Common Evidentiary Problems in Family Court Cases”

Hot Tips from the Experts, August 1998;

(i) “Clauses in Marital Settlement Agreements Which May Help Avoid Common Pitfalls”

Hot Tips from the Experts, September 2002;

(j) “A Survey of Recent Developments in the Law Concerning Antenuptial Agreements”

Hot Tips from the Experts, September 2003;

(k) “Pitfalls You May Incur if Your Settlement Agreement Provides for Court Ordered Arbitration or Mediation”

Hot Tips from the Experts, September 2004;

(l) “What Happens When One of the Parties Dies During Litigation”

Hot Tips From the Experts, September 2005;

(m) “Putative Father Registry”

Hot Tips from the Experts, September 2006;

(n) “Temporary Hearings and Temporary Relief in the Family Court”

Hot Tips from the Experts, September 2007;

(o) "The 7 Habits of Highly Ineffective People"

SCAJ Annual Convention, August 2009.

Judge Fuge reported that he has not published any books or articles.

(4) Character:

The Commission’s investigation of Judge Fuge did not reveal evidence of any founded grievances or criminal allegations made against him. The Commission’s investigation of Judge Fuge did not indicate any evidence of a troubled financial status. Judge Fuge has handled his financial affairs responsibly.

The Commission also noted that Judge Fuge was punctual and attentive in his dealings with the Commission, and the Commission’s investigation did not reveal any problems with his diligence and industry.

(5) Reputation:

Judge Fuge reported that his last available Martindale-Hubbell rating was AV.

Judge Fuge reported that he has held the following public office:

“I was the City Prosecutor for the City of Beaufort from 1979-81. I was appointed and upon completion of my term, I was awarded a citation from the City of Beaufort for my good work.”

(6) Physical Health:

Judge Fuge appears to be physically capable of performing the duties of the office he seeks.

(7) Mental Stability:

Judge Fuge appears to be mentally capable of performing the duties of the office he seeks.

(8) Experience:

Judge Fuge was admitted to the South Carolina Bar in 1974.

He gave the following account of his legal experience since graduation from law school:

1974 – 1976 Dowling, Dowling Sanders & Dukes, P.A.

Beaufort, S.C., General Practice;

1976 – 1977 Peter L. Fuge, Attorney at Law

Beaufort, S.C., General Practice;

1977 – 1980 Fuge & Denton, P.A.

Beaufort, S.C., General Practice;

1980 – 1995 Harvey & Battey, P.A.,

Beaufort, S.C.

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

1995 to 2/08 Peter L. Fuge, P.A., Beaufort, S.C.

General Practice with emphasis on domestic relations.

02/08 to Present Family Court Judge, 14th Judicial Circuit, Seat 2.

Judge Fuge reported that he has held the following judicial office:

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

Judge Fuge provided the following list of his most significant orders or opinions:

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

A sampling of the orders are as follows:

(a) Kimberley O'Dell v. Todd B. O'Dell

Case No. 2006-DR-07-380

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

(b) Natasha Lynn Langford v. Samuel Elliot Langford

Case No. 2009-DR-07-499

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

(c) Thomas M. Dailey v. Susan M. Centeno, f/k/a Susan M. Dailey

Case No. 2007-DR-07-838

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

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

(d) Rosella Joyner v. Wendell V. Roberson, Sr.

Case No. 2008-DR-07-1717

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

The prior orders were attached to the order as exhibits to explain the history of this case and I believe that this is a fair order which treats pro se litigants with respect, but requires them to comply with our Rules of Civil Procedure and the Family Court Rules.

(e) Pamela Boatright, n/k/a Pamela Wilderom v. Matthew Boatright, and Cliff and Deborah Boatright

Case No. 2007-DR-07-1339

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

Judge Fuge further reported the following regarding an unsuccessful candidacy:

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

(9) Judicial Temperament:

The Commission believes that Judge Fuge’s temperament has been and would continue to be excellent.

(10) Miscellaneous:

Judge Fuge is married to Meredith Brantley Fuge. He has three children.

Judge Fuge reported that he was a member of the following bar associations and professional associations:

(a) South Carolina Bar, 1974 to present

Family Law Section Council

Secretary, 1994

Vice Chairman, 1995

Chairman, 1996

House of Delegates, 1995 (to fill unexpired term of Jane Fender)

Lawyers Caring About Lawyers, 1990 to 2002

Lawyers Helping Lawyers, committee member, 2002 to 2007;

1. Supreme Court Commission on Continuing Legal Education & Specialization

Commission Member 1990-1996

Chairman, 1995-1996

Family Law Specialization Advisory Board (Past Chairman);

(c) American Bar Association, 1979 to present

Member, Family Law Section;

(d) South Carolina Trial Lawyers Association, 1974 to present

Family Law Section

Chairman 1986 to 1987;

(e) Association of Trial Lawyers of America, 1979 to present;

(f) Board of Directors for Beaufort County Drug Court

Board member 2004 to 2007;

(g) National Council of Juvenile and Family Court Judges

Member 2008 to present.

Judge Fuge provided that he was a member of the following civic, charitable, educational, social, or fraternal organizations:

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

**The Lowcountry Citizen’s Committee found Judge Fuge “Well-Qualified” for each of the nine evaluative criteria: constitutional qualifications, ethical fitness, professional and academic ability, character, reputation, physical health, mental stability, experience, and judicial temperament.**

Judge Fuge further reported:

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

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

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

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

(11) Commission Members’ Comments:

The Commision commented that Judge Fuge’s conduct as a Family Court judge for the past year and a half has been exemplary and noted his involvement in starting a Juvenile Drug Court in Beaufort County.

(12) Conclusion:

The Commission found Judge Fuge qualified and nominated him for re-election to the Family Court.

**Lisa Allen Kinon**

**Family Court, Fifteenth Judicial Circuit, Seat 2**

**Commission’s Findings: QUALIFIED AND NOMINATED**

(1) Constitutional Qualifications:

Based on the Commission’s investigation, Judge Kinon meets the qualifications prescribed by law for judicial service as a Family Court judge.

Judge Kinon was born in 1958. She is 51 years and is a resident of Conway, South Carolina. Judge Kinon provided in her application that she has been a resident of South Carolina for at least the immediate past five years and has been a licensed attorney in South Carolina since 1985.

(2) Ethical Fitness:

The Commission’s investigation did not reveal any evidence of unethical conduct by Judge Kinon.

Judge Kinon demonstrated an understanding of the Canons of Judicial Conduct and other ethical considerations important to judges, particularly in the areas of ex parte communications, acceptance of gifts and ordinary hospitality, and recusal.

Judge Kinon reported that she has not incurred any campaign expenditures in announcing her candidacy to the members of the General Assembly.

Judge Kinon testified she has not:

(a) sought or received the pledge of any legislator prior to screening;

(b) sought or been offered a conditional pledge of support by a legislator;

(c) asked third persons to contact members of the General Assembly prior to screening.

Judge Kinon testified that she is aware of the Commission’s 48-hour rule regarding the formal and informal release of the Screening Report.

(3) Professional and Academic Ability:

The Commission found Judge Kinon to be intelligent and knowledgeable. Her performance on the Commission’s practice and procedure questions met expectations.

Judge Kinon described her past continuing legal or judicial education during the past five years as follows:

Conference/CLE Name Date

(a) S.C. Bar Family Law Section 01-22-09;

(b) Family Court Judges Conference 04-22-09;

(c) Orientation School for New Family Court Judges 06-03-09;

(d) S.C. Bar Alternative Dispute Resolution Section 01-24-08;

(e) S.C. Bar Family Law Section 01-25-08;

(f) Family Court Judges Conference 04-23-08;

(g) Orientation School for New Family Court Judges 06-04-08;

(h) SCTLA Annual Convention 08-07-08;

(i) Judicial Conference 08-20-08;

(j) SCASA Law Day 09-17-08;

(k) S.C. Family Court Bench/Bar 12-05-08;

(l) Horry County Family Court Seminar 12-17-08;

(m) Family Court Bench/Bar 12-07-07;

(n) Horry County Family Court Seminar 10-11-07;

(o) Annual Solicitor Conference 09-26-07;

(p) Annual Judicial Conference 08-22-07;

(q) Orientation School for New Family Court Judges 07-11-07;

(r) Family Court Judge’s Conference 04-25-07;

(s) S.C. Bar Family Law Section 01-26-07;

(t) Horry County Family Court Seminar 12-14-06;

(u) Annual Solicitor’s Conference 09-24-06;

(v) Annual Judicial Conference 08-23-06;

(w) Mini Summit on Justice for Children 08-22-06;

(x) Orientation School for New Family Court Judges 07-10-06;

(y) Family Court Judge’s Conference 04-26-06;

(z) S.C. Bar Family Law Section 01-27-06;

(aa) Horry County Family Court 12-09-05;

(bb) S.C. Family Court Bench/Bar 12-02-05;

(cc) Annual Judicial Conference 08-24-05;

(dd) Family Court Judge’s Conference 04-27-05;

(ee) S.C. Bar Family Law Section 01-21-05;

(ff) Horry County Bar Oath 12-08-04;

(gg) Horry County Family Court Seminar 12-08-04;

(hh) Family Court Bench/Bar 12-03-04;

(ii) Supreme Court Judicial Oath of Office 08-19-04;

(jj) Annual Judicial Conference 08-19-04;

(kk) S.C. Bar Family Law Section 01-23-04;

(ll) Family Court Judges Conference 04-28-04.

Judge Kinon reported that she has taught the following law-related courses:

(a) I have lectured at the S.C. Bar Program “Bridge the Gap” for new lawyers;

(b) I have made presentations on the topics of appellate advocacy and domestic relations to lawyers attending the Annual S.C. Bar Meeting;

(c) I have participated as a Panelist in a Round Table Discussion of Business Valuation in S.C. Family Court at the Litigation Conference in Columbia, S.C. 2008;

(d) I made a presentation at the 2007 S.C. Annual Solicitor’s Conference on the Roles and Duties of a Guardian ad Litem;

(e) I made a presentation on May 19, 2008 at the S.C. Department of Education, S.C. Center for Truancy from a Judge’s Perspective;

(f) I made a presentation on May 22, 2009 at the Department of Social Services Paralegal Seminar on Mediating DSS Protective Services cases;

(g) I make presentations at the annual Horry County Bar Family Court Seminar each year on various Family Court topics;

(h) I have made presentations at the Clerk of Court’s Annual Conference in 2008 and 2009;

(i) I made a presentation at the 2008 Trial Lawyers Conference;

(j) I make a presentation on Trying a Merits Case at the New Judge’s Orientation School each year.

Judge Kinon reported that she has not published any books or articles.

(4) Character:

The Commission’s investigation of Judge Kinon’s did not reveal evidence of any founded grievances or criminal allegations made against her. The Commission’s investigation of Judge Kinon’s did not indicate any evidence of a troubled financial status. Judge Kinon has handled her financial affairs responsibly.

The Commission also noted that Judge Kinon was punctual and attentive in her dealings with the Commission, and the Commission’s investigation did not reveal any problems with her diligence and industry.

(5) Reputation:

Judge Kinon reported that she is not rated by Martindale-Hubbell.

(6) Physical Health:

Judge Kinon appears to be physically capable of performing the duties of the office she seeks.

(7) Mental Stability:

Judge Kinon appears to be mentally capable of performing the duties of the office she seeks.

(8) Experience:

Judge Kinon was admitted to the South Carolina Bar in 1985.

Judge Kinon in her application document omitted an account of her legal experience since graduation from law school.

Judge Kinon’s reported that she has held the following judicial office:

“Serving continuously as a Family Court Judge since July of 1995.”

Judge Kinon’s provided the following list of her most significant orders or opinions:

(a) Jane Addis Hunnicutt v. Stanley Phillip Hunnicutt 2003-DR-26-296

(Permanent Periodic Alimony award)

Appealed Opinion 2006-UP-024 filed January 12, 2006, Order and Opinion of Court of Appeals Attached;

(b) Miller L. Love, Jr. v. Ann B. Love2003-DR-26-651

(Ex-wife’s relationship tantamount to marriage—grounds for terminating ex-husband’s alimony obligation)

Court of Appeals Opinion 4077 filed January 23, 2006, Order and Opinion of Court of Appeals Attached;

(c) In the Interest of Jose Augusto Mendez Hernandez 2005-JU-26-1084 &1085

(Juvenile guilty plea for the charge of Reckless Homicide)

(Not appealed), Final Order attached;

(d) Bethany Leigh Cornelison v. Bruce Willliam Helm 2007-DR-26-2624

(Common law marriage)

(Not appealed), Final order attached

(e) Rochelle E. Anderson v. James David Anderson, Jr*.* 2007-DR-26-2584

(Inclusion of martial home in marital property for equitable apportionment in long-term marriage)

(Not appealed), Final Order Attached.

(9) Judicial Temperament:

The Commission believes that Judge Kinon’s temperament has been and would continue to be excellent.

(10) Miscellaneous:

Judge Kinon is married to Samuel Christopher Kinon. She has two children.

Judge Kinon reported that she was a member of the following bar associations and professional associations:

(a) South Carolina Bar Association—House of Delegates: 06/88-06/90, 07/90-06/93;

(b) South Carolina Bar Association—Board of Governors: 06/88-06/90, 07/90-06/93;

(c) Horry County Bar Association: 1985—Present.

Judge Kinon provided that she is not a member of any civic, charitable, educational, social, or fraternal organizations.

Judge Kinon further reported:

(a) President of the S.C. Conference of Family Court Judges; 2007-2008;

(b) Vice President of the S.C. Conference of Family Court Judges; 2006-2007;

(c) Secretary/Treasurer of the S.C. Conference of Family Court Judges 2005-2006;

(d) Certified Family Court Mediator; 1994;

(e) University of South Carolina School of Law; "Compleat Lawyer" Award, Silver Award, 1994;

(f) South Carolina Bar Pro Bono Service Award, 1992

(g) South Carolina Business and Professional Women-Young Careerist, District III, 1987;

(h) South Carolina Business and Professional Women-Young Careerist,Georgetown, 1987;

(i) American Jurisprudence Award - Evidence, 1985.

**The Pee Dee Citizens Advisory Committee found Judge Kinon “Well-Qualified” for each of the nine evaluative criteria: constitutional qualifications, ethical fitness, professional and academic ability, character, reputation, physical health, mental stability, experience, and judicial temperament. They further noted, “Judge Kinon impressed the Committee with her enthusiasm for her job. We believe she is well-suited to continue as a family court judge.”**

(11) Commission Members’ Comments:

The Commission commented that they concur with the Pee Dee Citizen Committee’s comments as to Judge Kinon’s enthusiasm for her position and further noted her fine record as a Family Court judge.

(12) Conclusion:

The Commission found Judge Kinon qualified and nominated her for re-election to the Family Court.

**Robert E. Guess**

**Family Court, Sixteenth Judicial Circuit, Seat 1**

**Commission’s Findings: QUALIFIED AND NOMINATED**

(1) Constitutional Qualifications:

Based on the Commission’s investigation, Judge Guess meets the qualifications prescribed by law for judicial service as a Family Court judge.

Judge Guess was born in 1948. He is 61-years old and a resident of Union, South Carolina. Judge Guess provided in his application that he has been a resident of South Carolina for at least the immediate past five years and has been a licensed attorney in South Carolina since 1974.

(2) Ethical Fitness:

The Commission’s investigation did not reveal any evidence of unethical conduct by Judge Guess.

Judge Guess demonstrated an understanding of the Canons of Judicial Conduct and other ethical considerations important to judges, particularly in the areas of ex parte communications, acceptance of gifts and ordinary hospitality, and recusal.

Judge Guess reported that he has not made any campaign expenditures.

Judge Guess testified he has not:

(a) sought or received the pledge of any legislator prior to screening;

(b) sought or been offered a conditional pledge of support by a legislator;

(c) asked third persons to contact members of the General Assembly prior to screening.

Judge Guess testified that he is aware of the Commission’s 48-hour rule regarding the formal and informal release of the Screening Report.

(3) Professional and Academic Ability:

The Commission found Judge Guess to be intelligent and knowledgeable. His performance on the Commission’s practice and procedure questions met expectations.

Judge Guess described his past continuing legal or judicial education during the past five years as follows:

Conference/CLE Name Date

(a) Family Law Section-S.C. Bar 1/23/04;

(b) Family Court Judges' Conference 4/28/04;

(c Annual Judicial Conference 8/19/04;

(d) S.C. Family Court Bench Bar 12/3/04;

(e) Family Law Section-S.C. Bar 1/21/05;

(f) Family Court Judges' Conference 4/27/05;

(g) Annual Judicial Conference 8/24/05;

(h) S.C. Family Court Bench 12/2/05;

(i) Family Law Section-S.C. Bar 1/27/06;

(j) Family Court Judges' Conference 4/26/06;

(k) Mini Summit on Justice for Children 8/22/06;

(l) Annual Judicial Conference 8/23/06;

(m) Family Law Section-S.C. Bar 1/27/07;

(n) Family Court Judges' Conference 4/25/07;

(o) Annual Judicial Conference 8/22/07;

(p) S.C. Family Court Bench/Bar 12/7/07;

(q) Family Law Section-S.C. Bar 1/25/08;

(r) Family Court Judges' Conference 4/23/08;

(s) Annual Judicial Conference 8/20/08;

(t) S.C. Family Court Bench/Bar 12/5/08;

(u) Family Law Section-S.C. Bar 1/26/09;

(v) Family Court Judges' Conference 4/22/09.

Judge Guess reported that he has taught the following law-related course:

Business law school year 1983-84 and 1984-85, USC Union Campus, general business law for sophomore level students.

Judge Guess reported that he has not published any books or articles.

(4) Character:

The Commission’s investigation of Judge Guess did not reveal evidence of any founded grievances or criminal allegations made against him. The Commission’s investigation of Judge Guess did not indicate any evidence of a troubled financial status. Judge Guess has handled his financial affairs responsibly.

The Commission also noted that Judge Guess was punctual and attentive in his dealings with the Commission, and the Commission’s investigation did not reveal any problems with his diligence and industry.

(5) Reputation:

Judge Guess reported that his last available Martindale-Hubbell rating was BV.

Judge Guess reported the following military service:

Completed 6 year enlistment, South Carolina National Guard January 20, 1970 - January 20, 1976. Headquarters and Headquarters Company 118th Infantry (Mech), Union, S.C.. Rank of Specialist 5. Honorable Discharge. Obligation completed.

Judge Guess reported that he has held the following public offices:

(a) County Attorney, Union County, S.C. from August 1994 through May 4, 2000, appointed by the Union County Supervisor;

(b) Attorney for the Town of Jonesville from 1993 through April 2000, appointed by the Jonesville Town Council.

(6) Physical Health:

Judge Guess appears to be physically capable of performing the duties of the office he seeks.

(7) Mental Stability:

Judge Guess appears to be mentally capable of performing the duties of the office he seeks.

(8) Experience:

Judge Guess was admitted to the South Carolina Bar in 1974.

He gave the following account of his legal experience since graduation from law school:

(a) March 1975 through November 1977: Private solo practice of law, Charleston, S.C. Practice consisted of criminal, real estate, probate and commercial collections. While not associated in a formal partnership, during this period I shared office space with Paul W. Garfinkle, Esq. and O. Benjamin Peeples, Esq.;

(b) November 1977 through July 1979: Practiced law in Greenville, S.C. in a partnership with Paul E. Wilburn III, Esq. General civil and criminal practice, primarily real estate, wills and estate planning, commercial collections and domestic;

(c) July 1979 through December 1986: Solo practice of law in Union, S.C. General civil and criminal practice, including domestic and family court, wills estate planning and probate, real estate, personal injury, social security disability, workmen's compensation and business law. Extensive criminal trial experience as an associate to the Union County Public Defender from 1980-1984. As Associate Public Defender handled numerous juvenile criminal matters;

(d) December 1986 through October 1988: Practice of law in Union, S.C. in partnership with Ralph Phillips Jr., Esq. and Pete G. Diamaduros, Esq. General practice of civil and criminal law, with emphasis for my individual practice on real estate, domestic and family court, wills and probate, with some limited criminal practice;

(e) October 1988 through May 12, 2000: Solo practice of law in Union, S.C. General civil practice with criminal practice limited to court appointed cases. Emphasis in practice on real estate, family court and domestic, wills probate and estate planning, including fiduciary litigation, business and commercial law including litigation, and some personal injury, workmen's compensation and social security disability. In 1993 I was retained as attorney for the Town of Jonesville and as such handle issues of municipal law, prosecute criminal cases in the Recorder's Court, review contracts and handle litigation involving the Town. In August 1994, I was appointed Union County Attorney. A significant portion of my practice was devoted to government law, contracts, and litigation for Union County;

(f) May 12, 2000 to date: Served as Judge of the Family Court for the Sixteenth Judicial Circuit, Seat No. 1.

Judge Guess reported that he has held the following judicial offices:

“From 1980 through April 2000, I served as Special Referee, appointed by the Clerk of Court for Union County or the Judge of Sixteenth Judicial Circuit to hear non-jury cases involving mortgage foreclosures and other real estate related matters. These appointments were made on a case by case basis and jurisdiction was limited to the issues raised in those particular cases.

I was elected to the Family Court of the Sixteenth Judicial Circuit, Seat No. 1, on February 9, 2000, was sworn into office on May 12, 2000 and have served in that office to date.”

Judge Guess provided the following list of his most significant orders or opinions:

(a) Piper v. Weaver and Small. 2000-DR-46-916, S.C. Court of Appeals Unpublished Opinion No. 2004-UP-407. This case was significant in that it was the classic case wherein a grandparent was seeking visitation after the divorce of her son and the mother of the grandchildren. At the time of the trial the natural father of the children was in prison. Testimony included allegations of mistreatment or excessive punishment of the children by the stepfather and disparagement of the mother and stepfather, and alleged psychological abuse of the children by the father and the grandmother. Expert testimony was presented on the issue of psychological damage to the children as a result of the stress of the visitations with the grandmother and the father. Visitations with the grandmother were terminated. On appeal, the Court of Appeals affirmed the guardian’s fee and attorney’s fees. The decision as to attorney’s fees to the prevailing party was reversed based on the inability of the grandmother to pay the amount of the fees awarded.

(b) Patricia A. Deidun v. Richard C. Deidun. 362 SC 47 (S.C. Court of Appeals 2004), 606 S.E. 2nd 489. This case dealt with the transmutation of non-marital property and an uneven distribution of marital property based on the “economic misconduct” of one party. The decision of the trial court was affirmed on appeal, as to both issues.

(c) Nataliya Holler v. William Holler. 364 SC 256 (S.C. Court of Appeals 2005), 612 S.E. 2nd 469. This case dealt with a pre-marital agreement signed by a woman from Ukraine who traveled to the United States to marry a resident of South Carolina. Prior to her marriage wife became pregnant with husband’s child. Wife’s visa to the United States was scheduled to expire on December 4, 1997 and she would have to return to Ukraine unless she married husband. Wife signed the premarital agreement on November 25, 1997 and the parties were married on December 1, 1997. The Court of Appeals affirmed the decision of the trial court holding that the premarital agreement signed by wife was not enforceable because it was signed under duress and was unconscionable in its terms.

(d) South Carolina Department of Social Services v. Mother, Father and Child. S. C. Court of Appeals Unpublished Opinion No. 2007-UP-020. The Court of Appeals affirmed the decision of the trial court holding that the parental rights of the child’s biological father should be terminated based on a number of statutory grounds. The case also dealt with the issue of whether or not the termination of parental rights was in the child’s best interest as require by S.C. Code Ann. Section 20-7-1572 (Supp. 2005). The best interest of the child was established by the child bonding with his foster family and by the desire of the foster family to adopt him.

(e) Lisa Sochko v. Jeffrey Sochko. S.C. Court of Appeals Unpublished Opinion No. 2007-UP-082. The primary issue of the appeal of this case was the division by the trial court of $120,000 received by the parties in litigation involving stucco damage to the marital home. Wife was awarded the marital home by agreement of the parties. The cost to repair the stucco damage was significantly less than the full amount of the settlement. Wife claimed the entire $120,000 settlement amount. The Court of Appeals affirmed a mathematical forumula for division of settlement whereby the trial court assessed the equity in the house and the value of the stucco settlement separately, insuring that each party was awarded their fair share of both.

Judge Guess further reported the following regarding an unsuccessful candidacy:

Candidate for Family Court Seat No. 1, Sixteenth Judicial Circuit;

Screened by Joint Legislative Committee April 27, 1994, found qualified;

Screened by South Carolina Bar Committee April 29, 1994, found qualified;

Withdrew on May 23, 1994, prior to election scheduled for May 25, 1994.

(9) Judicial Temperament:

The Commission believes that Judge Guess’s temperament has been and would continue to be excellent.

(10) Miscellaneous:

Judge Guess is married to Vanda Lee McLeod Guess. He has two children.

Judge Guess reported that he was a member of the following bar associations and professional associations:

(a) South Carolina Bar;

(b) Union County Bar Association;

(c) S.C. Conference of Family Court Judges;

(d) National Council of Juvenile and Family Court Judges.

Judge Guess provided that he was a member of the following civic, charitable, educational, social, or fraternal organization:

Member of Union Rotary Club for 25 years. Served as Director, Vice-President, President-elect and President for the year 1997-1998. Paul Harris Fellow. Resigned 2008.

**The Piedmont Citizens Committee found Judge Guess “Well-Qualified” for each of the nine evaluative criteria: constitutional qualifications, ethical fitness, professional and academic ability, character, reputation, physical health, mental stability, experience, and judicial temperament.**

Judge Guess further reported:

“I am 61 years old and practiced law for 25 years prior to taking office as Family Court Judge on May 12, 2000. I have been extensively involved in the affairs of the community and believe that I possess the respect and credibility required of the Family Court as an institution. It was my good fortune to be born into a family whose members have for generations been involved in and made contributions to the betterment of the communities in which they have lived. I have been instilled by my family members with a respect for the institutions which form the basis of our society: our government and its subdivisions, and the religious and charitable organizations with which we as citizens are in constant contact. I have been taught by word and by example that participation in and involvement with the activities of these institutions is valuable to me as an individual and to our community as a whole. I have been taught and I believe that it is necessary to abide by the rules of these various institutions but that it is acceptable to constructively identify things or activities which should be changed and to engage in civilized debate with those who disagree and to ultimately seek census among interested parties. I believe that I have applied my life experiences to my nine years of service as judge of the Family Court by respecting the institution of the courts, by respecting the litigants and lawyers who appear in those courts and where agreement is impossible by applying the statutes and rules which govern the Family Court to make fair decisions for all parties.”

(11) Commission Members’ Comments:

The Commission commented that Judge Guess is very intelligent, has a wonderful demeanor, and has ably served as a Family Court judge for nine years.

(12) Conclusion:

The Commission found Judge Guess qualified and nominated him for re-election to the Family Court.

**David Glenn Guyton**

**Family Court, Sixteenth Judicial Circuit, Seat 2**

**Commission’s Findings: QUALIFIED AND NOMINATED**

(1) Constitutional Qualifications:

Based on the Commission’s investigation, Judge Guyton meets the qualifications prescribed by law for judicial service as a Family Court judge.

Judge Guyton was born in 1961. He is 48 years old and a resident of Rock Hill, South Carolina. Judge Guyton provided in his application that he has been a resident of South Carolina for at least the immediate past five years and has been a licensed attorney in South Carolina since 1988.

(2) Ethical Fitness:

The Commission’s investigation did not reveal any evidence of unethical conduct by Judge Guyton.

Judge Guyton demonstrated an understanding of the Canons of Judicial Conduct and other ethical considerations important to judges, particularly in the areas of ex parte communications, acceptance of gifts and ordinary hospitality, and recusal.

Judge Guyton reported that he has spent $124.70 in campaign expenditures for business cards, labels, and name badges.

Judge Guyton testified he has not:

(a) sought or received the pledge of any legislator prior to screening;

(b) sought or been offered a conditional pledge of support by a legislator;

(c) asked third persons to contact members of the General Assembly prior to screening.

Judge Guyton testified that he is aware of the Commission’s 48-hour rule regarding the formal and informal release of the Screening Report.

(3) Professional and Academic Ability:

The Commission found Judge Guyton to be intelligent and knowledgeable. His performance on the Commission’s practice and procedure questions met expectations.

The Commission received one complaint regarding Judge Guyton. The complainant, Mr. Thomas McDow, a domestic relations attorney in Rock Hill, S.C., essentially alleged that Judge Guyton lacks knowledge of substantive and procedural law needed for a Family Court judge and has a bias in favor of children to the detriment of the legal rights of the birth and/or custodial parents. He testified at the Public Hearing that his allegations are based on his dealings with Judge Guyton in two cases and his knowledge from a third related case.

Specifically, in the first case, he testified that Judge Guyton represented a minor daughter and he represented minor’s father in an emancipation action. This matter was dismissed by Family Court Judge Landis on the grounds of lack of jurisdiction on the basis that a juvenile cannot maintain an action on her behalf without appointment of a guardian ad Litem (GAL) and the natural mother, whose parental rights had not been terminated was a necessary party to the action; she was not made a party. Mr. McDow testified that his claims for frivolous proceedings against Judge Guyton were subsequently mediated by Judge Guyton’s firm and they paid a settlement. In the second case cited by Mr. McDow, he testified that Judge Guyton sought to intervene on behalf of a minor regarding his custody in his parents’ family court proceedings. Mr. McDow alleged that Judge Guyton was barred from representing the minor due to a conflict of interest; minor’s mother had previously tried to retain him to represent her in her separation action three years prior. He also contended that Judge Guyton should not have tried to intervene, as the minor was effectively being represented by an attorney GAL. The testimony reflected that Family Court Judge Guess permitted Judge Guyton to originally represent the child at a November 2007 hearing, but in his February 2008 Order, he ruled that Judge Guyton was not permitted to participate further on behalf of the minor. Judge Guess also stated in his Order that he was not ruling on the conflict of interest allegation as it was moot.

In the third matter cited by Mr. McDow, Judge Guyton served as a GAL in a termination of parental rights and adoption case. Mr. McDow testified that Judge Guyton failed to conduct a full and impartial investigation as he would have discovered facts relevant to the situation of the child and family in accordance with the statute.

With respect to the first case, Judge Guyton testified that in hindsight he should have petitioned for a GAL but denied the action was in any way a violation of the S.C. Frivolous Civil Proceeding Sanctions Act. He testified that his firm settled this matter after a brief mediation since settlement was more cost-effective.

With respect to the second case, Judge Guyton testified that he believes his efforts on behalf of the minor client may have saved his life, and ultimately the minor client was able to reside with his father. In his testimony, he denied that he had a conflict of interest based on a brief telephone conversation he had with minor’s mother.

As for the third matter, Judge Guyton testified that his GAL report speaks for itself as to his thorough investigation, his involvement, and his recommendations. He testified that he had no direct knowledge to question the biological mother and the adopting father’s relationship. He noted that, even if had that knowledge, his recommendation would not have changed. He explained the termination of the natural father’s parental rights was based upon nonvisitation and nonpayment of child support.

After hearing the testimony at the Public Hearing, the Commission found that the allegations made against Judge Guyton were unfounded and the complaint was without merit.

Judge Guyton described his past continuing legal or judicial education during the past five years as follows:

Conference/CLE Name Date

(a) Family Law Training 3/20/09;

(b) MCAA 2009 Spring Meeting 4/17/09;

(c) S.C. Summary Court Judges Association 5/4-5/09;

(d) CDV and Legal Update 12/18/08;

(e) 8th Domestic Operational Law Course 10/27-31/08;

(f) Commission and ATA Seminar 10/21/08;

(g) Guardian Ad Litem Continuing Education Training 10/03/08;

(i) Hot Tips From the Coolest Domestic Law Practitioners 9/19/08;

(j) Prosecuting the Impaired Driver 5/15-16/08;

(k) S.C. Summary Court Judges Association 5/5-5/08;

(l) Training for attorneys appointed in abuse and neglect cases in the 16th Judicial Circuit 2/08/08;

(m) Education Law Training 7/25/08;

(n) S.C. Law for Military Attorneys 9/28/07;

(o) Annual Judge Advocate officer Training 4/27/07;

(p) Domestic Violence and the Criminal Justice System 4/05/07;

(q) Children’s issues in Family Court 3/23/07;

(r) Rudolph C. Barnes Sr. Symposium 2/2-3/07;

(s) Domestic Violence and the Criminal Justice System 7/27/06;

(t) COLC Ethics Seminar CLC and ATA Meeting 9/21/05;

(u) YCBA Family Law Seminar 0/24/05;

(v) Domestic Violence and the Criminal Justice System 0/28/05;

(w) JAG Reserve Component Onsite 1/8-9/05;

(x) Judicial Oath of Office Seminar 11/19/04;

(y) YCBA Lawyer’s Oath Seminar 9/14/04;

(z) DUI Advocacy from “A” to “Z” 8/19-20/04;

(aa) Guardian Ad Litem Training 3/05/04;

(bb) Advocating the Rights of Service members 2/06/04;

(cc) STOP the Violence Against Women Summary Court Seminar 2/23-24/04;

(dd) STOP Violence Against Women Program 4/25/03;

(ee) 5th Annual Children’s Law Conference 5/15-16/03.

Judge Guyton reported that he has taught the following law-related courses:

(a) I recently made a presentation to the Municipal Court Administration Association as a City Court Judge on diffusing hostility;

(b) I made a presentation at the Southeastern Judge Advocates Conference on Rules for the Use of Force during civil disturbances or civil disasters;

(c) Taught a CLE several years ago to S.C. Bar. (cannot recall topic);

(d) Taught volunteer Guardians Ad Litem for local training requirements;

(e) Taught local clerk of courts office personnel courtroom procedure and evidence;

(f) Organized and conducted Military Support to Civilian Authorities training and CD at South Carolina JAG Conference;

(g) Organized and conducted Military Justice training to SCNG Judge Advocates and Administrative Officers;”

Judge Guyton reported that he has not published any books or articles.

(4) Character:

The Commission’s investigation of Judge Guyton did not reveal evidence of any founded grievances or criminal allegations made against him. The Commission’s investigation of Judge Guyton did not indicate any evidence of a troubled financial status. Judge Guyton has handled his financial affairs responsibly.

The Commission also noted that Judge Guyton was punctual and attentive in his dealings with the Commission, and the Commission’s investigation did not reveal any problems with his diligence and industry.

(5) Reputation:

Judge Guyton reported regarding his rating in Martindale-Hubbell, “I believe it is BV and I am currently trying to confirm the rating.”

Judge Guyton reported the following military service:

United States Marine Corps October 1, 1988, to October 1, 1991. I was discharged with an Honorable Discharge as a Captain and Gulf War veteran upon completion of my term. The military uses my social security number instead of assigning a separate serial number.

South Carolina Army National Guard from March 1992 through the present date. I am a Lieutenant Colonel currently serving as the State Military Judge at Joint Task Force Headquarters at The Adjutant General’s Building in Columbia, S.C. My name was recently published on the Colonel’s promotion list, but I can’t be promoted until I am moved into a position which carries that rank. No serial number; just the social security number.

(6) Physical Health:

Judge Guyton appears to be physically capable of performing the duties of the office he seeks.

(7) Mental Stability:

Judge Guyton appears to be mentally capable of performing the duties of the office he seeks.

(8) Experience:

Judge Guyton was admitted to the South Carolina Bar in 1988.

He gave the following account of his legal experience since graduation from law school:

“Upon release from active duty with the United States Marine Corps in October 1991, I returned to Rock Hill, S.C., and began practicing law with Harrelson & Hayes that same month as an Associate in their firm. I became a Partner in 1996, and the firm then became Harrelson, Hayes, & Guyton. I have practiced continuously as a Partner in the firm since then. My primary area of practice has been Family Court (75%). I also have done residential real estate closings, simple estate documents and probate, and criminal defense on a regular basis as an Associate and Partner (25%). I have handled some Landlord –Tenant, personal injury, foreclosure, and contract disputes on a limited basis through the years.”

Judge Guyton further reported:

I have extensive experience in divorce, separation, child custody, child support, alimony, equitable distribution of property, adoptions, name changes, S.C. Department of Social Services cases, and juvenile cases, as Family Court has been my primary area of practice for almost 17 years. I have represented well over a 1000 clients to include spouses, parents, grandparents, Guardians, and children. I have been a volunteer GAL for children in DSS abuse and neglect cases, and have defended parents charged with abuse and neglect.

I have been a GAL in paid private custody actions after either being appointed by Family Court Judges or requested by both counsel in such actions. I have handled many step parent adoptions and my wife and I adopted a bi-racial child we took home from the hospital at birth.

I have also brought and defended Termination of Parental Rights actions. I have been retained, appointed, and have taken cases through the S.C. Bar pro bono program, and the Legal Assistance to Military Personnel (LAMP) program. I have represented minors in emancipation actions. I have brought and defended Rule To Show Cause Actions for non compliance with Family Court Orders.

I have represented clients at DSS Administrative hearings for child support, and at Foster Care Review Boards. I have handled cases which require a determination of proper jurisdiction under state and federal law (UCCJA, UCCJEA, PKA). I once took legal and physical custody of an 11 year old boy for 7 months when his father abandoned him, his mother was in jail, and his great grandmother could no longer care for him.

I have represented juveniles in Family Court, and acted as an Auxiliary Probation Officer (voluntary position) through the Dept of Juvenile Justice to both account for and be a mentor for several juveniles placed on probation. I have handled several annulments and dealt with the issue of common law marriage. I have handled name changes for minors and adults.

I have assisted victims of domestic violence and brought actions for Protection from Domestic Abuse, and I have defended those accused of domestic abuse. I am currently a Board Member of the Children’s Attention Home Charter School Board. I feel I have been involved in almost every aspect of Family Court from various perspectives, which will allow me to make better decisions.

Judge Guyton reported the frequency of his court appearances prior to his service on the bench as follows:

(a) Federal: 0;

(b) State: Average three times per week considering family court, general sessions, magistrates, common pleas, and court-martials.

Judge Guyton reported the percentage of his practice involving civil, criminal, and domestic matters prior to his service on the bench as follows:

(a) Civil: 15%;

(b) Criminal: 10%;

(c) Domestic: 75%.

Judge Guyton reported the percentage of his practice in trial court prior to his service on the bench as follows:

(a) Jury: 5%;

(b) Non-jury: 95%.

Judge Guyton provided that prior to his service on the bench he most often served as sole counsel.

The following is Judge Guyton’s account of his five most significant litigated matters:

“I do not practice before Federal Courts. I do not believe I have been involved in any reported cases.”

(a) Recently I successfully obtained the return of legal and physical custody of a 5 year old to his mother in Virginia after the tragic vehicle death of the child’s father who had custody. The step mother and grandparents attempted to terminate her parental rights and adopt the child. After several initial court hearings which were strongly contested, I helped arrange a visitation schedule for the step mother and grandparents so that the families now get along, and the child now has two very loving and supporting families.

(b) Last year I filed a motion to intervene and represent a 15 year old whose parents had been involved in a custody battle for approximately 4 years. He was in my youth group at church. The stress of the custody battle resulted in his threatened suicide and hospitalization on two occasions. I was not paid. By motion to the court I arranged for him to speak directly to the Judge without the parents’ presence. The Judge had not wanted to separate him and an older brother, but eventually the parents settled allowing one child with one parent and this child with his father. He is now very happy, doing well in school, and was a member of his state championship high school marching band!

(c) Several years ago I was appointed as the Guardian Ad Litem for a child whose mother was in jail and whose father was arrested for beating up his current girlfriend in front of the child. The child (Michael) was around 7 at the time. His Great-grandmother was awarded custody with my recommendation. My son was a year younger and we often had Michael over to our home to play with Caleb and try to example a “normal” family. We took him to church and on vacations, and he became another son to me. When the father got out of jail he skipped town without even asking about Michael. The S.C. Dept of Social Services made false allegations against the Great-grandmother, whose health would not allow her to care for Michael. I filed an action for, and was awarded, temporary custody of Michael. He moved in with us and became a member of our family for 7 months. We were very involved in all aspects of his life, including church, school, and counseling. I helped his mother get into a special rehabilitation program while incarcerated, and then successfully represented her before the Parole Board, which included obtaining employment for her prior to her release. We were able to return custody to his mother and they have lived together since! He was like another son and I will always consider that as a way I was able to use my law license to save a life.

(d) Several years ago I was appointed on an indigent defense armed robbery charge in Chester, S.C. The evidence appeared strong against my client, but I could not negotiate a reasonable plea deal and he wanted a jury trial. We ultimately were able to obtain a videotape of my client at a family birthday party with a date time stamp which would have made it almost impossible for my client to be at the place of the crime at the time it was committed. After a two-day trial, the jury returned a not guilty verdict. It was significant to me because it proved to a young black man, his family, and his community, that a white male lawyer would zealously represent him without pay (I never did receive pay from the state) to a successful conclusion. They felt the system worked to a just outcome, therefore overcoming an assumed inherent racial prejudice.

(e) Several years ago I was assigned as military defense counsel to represent a non-commissioned officer with over 20 years service at an Administrative Separation Board for a positive urinalysis. After showing a negative drug test by his civilian employer less than 24 hours after the first test, and the live character testimony from numerous members of his unit, he was retained and we successfully saved his career, his reputation, and his retirement. He eventually retired with an Honorable Discharge and still thanks me whenever I see him.

Judge Guyton reported that he has not personally handled any civil appeals.

Judge Guyton reported the following with respect to any criminal appeals he has personally handled:

I do not recall ever filing a criminal appeal, although I have filed the Notice of Appeal to allow for Appellate Indigent Defense to take an appointed case upon my completion.

Judge Guyton reported that he has held the following judicial offices:

I was appointed as an Associate City Court Judge for the City of Rock Hill by Municipal Court Judge Jane P. Modla in 1999, and confirmed by the Rock Hill City Council. I have served continuously since that time and have been reaffirmed by City Council as required. I have presided over bench trials, jury trials, and set bonds. However, over the last few years I have primarily presided over the dockets set for evening court, usually for only a few hours each month. The jurisdiction is for city criminal and traffic offenses for up to 30 days in jail or $500 fine, and as otherwise allowed by statute (such as DUS 3rd which allows a 90 day sentence). City Court does not handle civil matters. With the assistance of another Judge we have handled more than 200 cases on a docket in one evening. I am paid as independent contractor, not as an employee of the City of Rock Hill.

I also currently serve as the South Carolina National Guard Military Judge, which carries the powers of a state Circuit Court Judge by statute. I have served in that capacity since April 2008. This is an assigned duty by our S.C. Adjutant General, MG Stanhope Spears, and our State Judge Advocate, Colonel Barry Bernstein. I am compensated by my normal National Guard pay. I do not receive any extra compensation for this position. I preside over Special Courts-Martial for the National Guard under the S.C. Code of Military Justice, and can impose incarceration, fines, reduction in rank, and a Bad Conduct Discharge. It is considered a state circuit court, not a federal court.

Judge Guyton reported the following regarding his employment while serving as a judge:

“As noted above I have been an Associate, and then a partner, with Harrelson, Hayes & Guyton, since October 1991. My law partners Wes Hayes and Hugh Harrelson were obviously my supervisors prior to my being made a partner. I have been a Judge Advocate with the S.C. Army National Guard since March 1992, when I joined as a Captain. I have served continuously since that time, and I am now a Lieutenant Colonel. I was recently notified my name has come out on the Colonel’s promotion list, but I cannot be promoted until I am placed in a Colonel’s slot. My current supervisor is Colonel Barry Bernstein. My former supervisors have included COL James Lockemy (ret.) and LTC Vic Rawl (ret.). My duties have included trial counsel, defense counsel, judge, legal assistance, and battle captain.”

(9) Judicial Temperament:

The Commission believes that Judge Guyton’s temperament would be excellent.

(10) Miscellaneous:

Judge Guyton is married to Crystal Fickling Guyton. He has two children.

Judge Guyton reported that he was a member of the following bar associations and professional associations:

(a) South Carolina Bar Association since 1988. Member of Military Law and Family Law committees. S.C. Bar Outstanding Young Lawyer Award. Pro Bono program volunteer. Legal Assistance to Military Personnel volunteer;

(b) York County Bar Association since 1992. Past Secretary, Treasurer, and President (1996);

(c) American Bar Association since 1988;

(d) S.C. Summary Court Judges Association since 1999;

(e) Commission on Lawyer Conduct for over 10 years.

Judge Guyton provided that he was a member of the following civic, charitable, educational, social, or fraternal organizations:

(a) Charter member of Marine Corps League Olde English Leatherneck Detachment and Judge Advocate since April 2002. Several Outstanding Marine awards and Four Chaplains award;

(b) Member and Judge Advocate for VFW Old Hickory Post 2889 since 1990s;

(c) Member American Legion Frank Roach Post 43 since 1992;

(d) Member and Secretary for York County Veteran’s Council since 1993 and serve as their Master of Ceremonies for the annual Memorial Day Ceremony;

(e) Children’s Attention Home Charter School Board member and Treasurer;

(f) Rock Hill School District Foundation Board, past Treasurer, 2009 Outstanding Volunteer Award;

(g) Palmetto Volunteers in Medicine Clinic, Inc., Charter Board member and Secretary. I incorporated it as a nonprofit in S.C. and obtained IRS 501(c) (3) tax exempt status;

(h) Rock Hill Kiwanis Club for 15 years. Past President. Coordinator and volunteer for Terrific Kids program;

(i) Charter Board member for 15 years Rolling in Rock Hill annual paint project painting homes of poor or disabled. Estimated 250 homes painted;

(j) Oakland Baptist Church Sunday School teacher, former Deacon, current Treasurer, former RA leader, former Youth leader, various committees;

(k) Auxiliary Probation Officer through the Department of Juvenile Justice;

(l) Webelos Scout Den leader for 2006 and 2007.

Judge Guyton further reported:

As a husband, father, Christian, attorney, Marine, Soldier, and community leader I have always viewed myself as a servant-leader. I do not seek this position as a life goal, but at the request of my fellow attorneys and judges, after much thought and prayer. Due to my extensive involvement in my community and life experiences, I have learned the different perspectives of many people and earned a reputation for being fair and impartial among attorneys, judges, and clients. I have also earned a reputation for the ability to resolve conflicts in an amicable manner. I am patient, and I have a heart for children. I am in excellent health, competing in sprint triathlons and obtaining a perfect score on the Army Physical Fitness Test. I have successfully balanced the stress of a family court practice with my responsibilities to my family, God, country, and community. I am mentally healthy. I have no hidden agendas. The role of Family Court Judge is and should remain non partisan. My honesty and overall ethics have never been questioned.

**The Piedmont Citizens Committee found Judge Guyton “Well-Qualified” for each of the nine evaluative criteria: constitutional qualifications, ethical fitness, professional and academic ability, character, reputation, physical health, mental stability, experience, and judicial temperament.”**

(11) Commission Members’ Comments:

The Commission commented that Judge Guyton is a well-qualified Family Court candidate based on his 18 years of practicing law in this arena. They noted that they were impressed with his temperament and sincerity, which would serve him well on the bench.

(12) Conclusion:

The Commission found Judge Guyton qualified and nominated him for election to the Family Court.

**Tony Miller Jones**

**Family Court, Sixteenth Judicial Circuit, Seat 2**

**Commission’s Findings: QUALIFIED AND NOMINATED**

(1) Constitutional Qualifications:

Based on the Commission’s investigation, Tony M. Jones meets the qualifications prescribed by law for judicial service as a Family Court judge.

Tony M. Jones was born in 1958. He is 51 years old and is a resident of Rock Hill, South Carolina. Mr. Jones provided in his application that he has been a resident of South Carolina for at least the immediate past five years and has been a licensed attorney in South Carolina since 1983.

(2) Ethical Fitness:

The Commission’s investigation did not reveal any evidence of unethical conduct by Mr. Jones.

Mr. Jones demonstrated an understanding of the Canons of Judicial Conduct and other ethical considerations important to judges, particularly in the areas of ex parte communications, acceptance of gifts and ordinary hospitality, and recusal.

Mr. Jones reported that he has not made any campaign expenditures in announcing his candidacy to the General Assembly.

Mr. Jones testified he has not:

(a) sought or received the pledge of any legislator prior to screening;

(b) sought or been offered a conditional pledge of support by a legislator;

(c) asked third persons to contact members of the General Assembly prior to screening.

Mr. Jones testified that he is aware of the Commission’s 48-hour rule regarding the formal and informal release of the Screening Report.

(3) Professional and Academic Ability:

The Commission found Mr. Jones to be intelligent and knowledgeable. His performance on the Commission’s practice and procedure questions met expectations.

Mr. Jones described his past continuing legal or judicial education during the past five years as follows:

Conference/CLE Name Date

(a) Federal & State Securities Enforcement 12-09-08;

(b) 2008 S.C. Family Court Bench/Bar 12-05-08;

(c) Hot Tips from the Coolest Domestic Law Pract. 09-18-08;

(d) Family Court Bench/Bar 12-07-07;

(e) What’s New in the World of 10-30-07;

(f) Hot Tips from the Coolest Domestic Law Pract 09/21/07;

(g) Advanced Cross Examinations 12/15/06;

(h) Family Court Bench/Bar 12/01/06;

(i) Hot Tips from the Coolest Domestic Law Pract. 09/22/06;

(j) Recent Developments in Ethics 09/13/06;

(k) S.C. Family Court Bench/Bar 12/02/05;

(l) Hot Tips from the Coolest 09/23/05;

(m) York County Bar Assn: 2005 09/20/05;

(n) Family Law Seminar 06/24/05;

(o) Updating your Adv. Skills 12/10/04;

(p) Masters in Trial 11/12/04;

(q) Ethics Seminar 09/14/04;

(r) Revised Lawyer’s Oath CLE 09/14/04.

Mr. Jones reported that he has taught the following law-related courses:

(a) I have lectured at the S.C. Bar program “Bridge the Gap” for new lawyers;

(b) I have made presentations on the topics of appellate advocacy and domestic relations to lawyers attending the Annual S.C. Bar Meeting.

Mr. Jones reported that he has published the following:

(a) S.C. Appellate Practice Handbook (S.C. Bar CLE 1985), Contributing Author;

(b) Marital Litigation in S.C., Roy T. Stuckey and F. Glenn Smith (S.C. Bar CLE 1997), Editorial Board.

(4) Character:

The Commission’s investigation of Mr. Jones did not reveal evidence of any founded grievances or criminal allegations made against him. The Commission’s investigation of Mr. Jones did not indicate any evidence of a troubled financial status. Mr. Jones has handled his financial affairs responsibly.

The Commission also noted that Mr. Jones was punctual and attentive in his dealings with the Commission, and the Commission’s investigation did not reveal any problems with his diligence and industry.

(5) Reputation:

Mr. Jones reported that he is not currently listed in Martindale-Hubbell. “The last time I was listed was the 1990’s. At that time, my rating was BV. When I was with the law firm of Elrod, Jones, Leader and Benson, we made a collective decision to discontinue our listing and focus more on an Internet web page. We felt that the web page gave us more exposure, given the advancement in technology.”

(6) Physical Health:

Mr. Jones appears to be physically capable of performing the duties of the office he seeks.

(7) Mental Stability:

Mr. Jones appears to be mentally capable of performing the duties of the office he seeks.

(8) Experience:

Mr. Jones was admitted to the South Carolina Bar in 1983.

He gave the following account of his legal experience since graduation from law school:

Upon graduation from law school in 1983, I was employed by Luther C. Elrod, III, as sole practitioner. Mr. Elrod practiced primarily in the area of workman’s compensation and civil litigation and I was hired to expand the scope of the practice. Within several years, I was made a partner and the name of the law firm changed to Elrod and Jones. In 1989, Jack G. Leader joined the firm and the name of the firm was changed to Elrod, Jones and Leader. In 1990 or 1991, David Benson joined the firm, and the firm shortly thereafter became known as Elrod, Jones, Leader and Benson. In 2001, Harold C. Staley, Jr. was hired as an associate. In 2006, I left the firm and become a solo practitioner.

Upon passing the Bar, my practice focused on family law, social security, civil litigation and, to a lesser extent, criminal law. Within a few years, the domestic practice began to grow and slowly other areas were eliminated. By 1988, I was practicing family law and social security disability law exclusively. Family law made up 80% to 85% of my practice at that time. In the early 1990’s, Jack Leader began handling all of the social security for our firm and I began handling Family Court law exclusively.

I have an extensive amount of experience in the areas of divorce, equitable division of property, alimony, child custody, abuse and neglect and, to a lesser extent, adoption and juvenile justice. For the past four years, I have averaged almost two hundred Court appearances per year in Family Court. In my career, I have handled almost two thousand domestic cases. I have been involved in extremely contested cases involving fault grounds of divorce.

Quite a number of my cases concern equitable division of property. I have extensive experience in handling cases where I have to deal with the character of property, whether it be marital or non-marital, and whether or not transmutation had taken place was the central issue. I have been involved in cases where I have had to go through a great deal of discovery to uncover hidden assets and utilize the services of expert witnesses to pour over tax returns and financial records to locate assets that were not identified by the adverse party.

I have tried a number of cases involving alimony. As alimony is within the sound discretion of the Trial Court, it can be a complicated matter. I tried the case of Croom v. Croom, 305 S.C. 158 (Ct. App. 1991) where we sought to terminate alimony based upon post divorce misconduct. While the relief we sought was denied by the Court of Appeals, the case itself was a factor in the Legislature enacting Section 20-3-150, South Carolina Code of Laws, 1976 as amended.

I have been involved in quite a number of child custody cases. A number of domestic cases will start out with child custody as an issue, but frequently settle once a Guardian ad Litem becomes involved and, in particular, if psychological evaluations are performed. However, there are times when those cases do not settle and I have a considerable amount of experience in hotly contested child custody cases. I tried the case of Lee v. Lee in 1991 against Jim McLaren and Brooks Goldsmith for five days. The case involved psychologist, psychological evaluations, etc. The case did not involve any equitable division of property, but rather, only child custody.

I have handled a great deal of abuse and neglect cases, whether being retained or appointed. I have also assisted other lawyers who were not experienced in the area of Family Court who have been appointed to complicated abuse and neglect cases. It seems I always have several of these cases going on and, given the fact that I am on the appointment list, a steady stream of them come into my office.

My experience in adoption and juvenile justice is not quite as extensive as other areas of family law. While I have handled a number of intra-family adoptions over the years, my experience with newborn adoptions is more limited. That is a specialized area that only a few attorneys in my county practice on a regular basis. However, I am familiar with the statutory procedures and would be able to handle such matters if they came before me, given my familiarity with the system and law of Family Court in general.

The same is true of juvenile justice matters. While I have handled a number of cases over the years, I do not do so on a routine basis. Here again, I am familiar with the body of law insofar as juvenile justice is concerned and am aware of the procedures for handling these matters. My background in the overall system of Family Court and familiarity with the body of law and procedures as a whole will enable me to handle these matters without any issue.

Mr. Jones reported the frequency of his court appearances during the past five years as follows:

(a) Federal: Zero;

(b) State: 100%. “I have averaged approximately two hundred Court appearances per year over the last five years in the Family Court.”

Mr. Jones reported the percentage of his practice involving civil, criminal, and domestic matters during the past five years as follows:

(a) Civil: Zero;

(b) Criminal: Zero;

(c) Domestic: 100%.

Mr. Jones reported the percentage of his practice in trial court during the past five years as follows:

(a) Jury: Zero;

(b) Non-jury: 100 % (Family Court).

Mr. Jones provided that he most often served as sole or chief counsel.

The following is Mr. Jones’ account of his five most significant litigated matters:

(a) Croom v. Croom, 305 S.C. 158 (Ct. App. 1991).

In this case, an ex-wife lived with a paramour and supported him, at least in part, with her alimony payments. Evidence was submitted at the Trial Court which indicated they decided not to marry so she could continue to receive her alimony. Had the wife lived with her paramour prior to the divorce, alimony would have been barred due to her misconduct. The case was significant, because under South Carolina law at that time, there was no provision to terminate alimony where an ex-spouse lived with a partner and elected not to remarry because it would terminate her alimony payments. The Court of Appeals decided the case on other grounds, as the parties had entered into an agreement which provided that alimony could be modified by a written agreement of the parties. However, the Court indicated that, if such an agreement had not been in place the decision may have been different. This case gave rise to the passage of the alimony statute which provided cohabitation for period of (90) days (cumulative) shall result in termination of one’s alimony. Section 20-3-150, South Carolina Code of Laws, 1976 as amended.

(b) Panas v. Panas, #03-DR-46-165 (this case is currently under appeal).

In this case, I represent the wife. The Husband was involved in a number of business enterprises, most of which involved promoting “sweepstakes” contests. It was basically a scam and the various business enterprises were, and currently are, under federal investigation. The case involved issues relating to the divorce. The wife sought a divorce on the grounds of adultery, physical cruelty, and habitual intoxication. Ultimately, she was awarded a divorce on all of these grounds. The issue of alimony was difficult because the husband did not comply with discovery and the issue of his income was decided on the basis of the lifestyle that the parties had enjoyed during the marriage, because there was little evidence to completely document his income. His financial declaration claimed income that barely met his support obligations under the Temporary Order and he continued to enjoy a lavish lifestyle of his own. The parties had two children. The wife was awarded $4,000.00 per month in child support and $7,500.00 in alimony. For purposes of equitable division, the husband did not fully disclose his assets. The wife was ultimately awarded $2,062,872.00 for her equitable division of property. The Court had to speculate to some degree as to the value of the martial estate due to the husband’s failure to disclose assets. His failure to disclose assets was determined by an investigation of his financial records which listed ownership in various enterprises for which the records were not produced. It was an extremely complicated case which touched on issues of alimony, equitable division of property, grounds of divorce, etc. The husband is currently out of the country in an effort to avoid federal prosecution.

(c) Lee v. Lee, #91-DR-29-113. This case was tried in 1991.

This case involved child custody. The case was tried before the Honorable Berry Mobley for an entire week. I represented the wife, along with my co-counsel, Debbie Mollycheck. The father was represented by Jim McLaren, along with his co-counsel, Brooks P. Goldsmith. The case involved issues of misconduct and mental stability of the mother, as well as the father’s inability to provide and appropriate environment for the children. The case involved psychologists, psychiatrists, and the like. The standard for determining custody is what is in the best interests of the child. That determination must be determined from almost every aspect of the children’s lives, the parties’ environment and their stability. This case touched on almost every aspect of what can constitute the best interests of the child insofar as the determination of custody is concerned. The case was not appealed.

(d) Yousefian v. Yousefian #99-DR-12-481. This case was tried on May 8, 2001 (Chester County) and June 8, 2001 (Fairfield County).

This case involved grounds for divorce, alimony, equitable division of property, and attorney’s fees. The wife sought divorce from the husband on the grounds of physical cruelty. The husband was a doctor. He had recently sold his practice to a local hospital and was earning less money than when he previously operated his own clinic. At issue (for purposes of determining alimony) was his income vs. his income potential. This case was significant because the amount of alimony the wife received depended on the husband’s income and the question was whether or not he had voluntarily reduced his income by selling his medical practice and did that justify a reduction in the alimony. Also, since he had sold his practice, the value of the practice was not considered for purposes of equitable division. However, the proceeds that he received became an issue as to whether or not that was going to constitute equitable division of property or a substitute for his income, which had diminished. It became a tangled mess and the case was tried over a period of four days. It was extremely complicated insofar as a determination of the husband’s income, the alimony entitlement, the equitable division of property, and the ground for the divorce itself.

(e) Jackson v. Jackson*,* #98-DR-46-581. The case was tried on March 7, 2000.

This was a long term marriage which included grounds for divorce, and an equitable division of property/transmutation of property. The wife sought a divorce from the husband on grounds of adultery. After much effort it was ultimately discovered that the wife was guilty of adultery, which served as a bar to her receiving alimony. She was an alimony candidate due to the length of the marriage, the husband’s fault, and the disparity in income. However, the central issue was the transmutation of property. The husband worked in a family business known as Jackson’s Cafeteria. Over the years of the marriage, the husband’s father gave significant amounts of stock and ownership in the business enterprises. Transmutation was the central issue in the case, as to whether or not the gifts had been transmuted into marital property. Some of the property had been transmuted and some had not. After that had been determined, the division of property was impacted, as the contributions to the acquisitions of the properties was skewed to the extent that the husband had received gifts of property that were ultimately determined to be marital. On the eve of the trial, the matter was settled with the husband receiving 60% of the estate and the wife 40% of the estate and some of the properties that were received from the husband’s father were considered non-marital. It was a complicated property matter.

The following is Mr. Jones’ account of five civil appeals he has personally handled:

(a) Croom v. Croom, 305 S.C. 158 (Ct. App. 1991);

(b) Terese Lynn Milczewski-Willis v. James Michael Willis *#08-DR-46-182 -* Supersedeas;

(c) Darrin Mahan v. Shari Mahan #07-DR-46-811 – Supersedeas;

(d) Suzanne Jones v. Robert Jones – 97-UP-424 (Ct. App. 1997).

Mr. Jones reported that he has not personally handled any criminal appeals.

(9) Judicial Temperament:

The Commission believes that Mr. Jones’ temperament would be excellent.

(10) Miscellaneous:

Mr. Jones is not married. He does not have any children.

Mr. Jones reported that he was a member of the following bar associations and professional associations:

(a) South Carolina Bar Association –1983 – Present;

(b) York County Bar Association –President, 1988.

Mr. Jones provided that he was not a member of any civic, charitable, educational, social, or fraternal organizations.

Mr. Jones further reported:

My parents were divorced when I was ten years of age. It occurred at a time when divorce was not a common occurrence in South Carolina. I know what it is like to be a child in a divorce situation and what type of impact a bitter, embroiled domestic case can have on a young child. I am keenly aware of what divorce can do to a child.

I served on the Board of Directors for The Children’s Attention Home in York County for six to eight years. The Children’s Attention Home is a facility where children who are taken into emergency protective custody are placed until such time as a disposition can be made for their placement by the Courts. Frequently, they go from the Attention Home into foster care or to another family member’s home. I was Chairman of the Board for a considerable period of my tenure. I was in the home a number of days per week, as I was involved in the day to day activities of the facility. I saw the children come and go on a daily basis. Being in the courtroom and dealing with the outcome of the case is one thing, but seeing the children eye to eye is another. I know the pain that a child feels when they come into such a facility. I have seen the fear in their eyes; it will break your heart.

I have served as a foster parent. I had two young children in my home – at separate times. I dealt with them, as well as their families, as we worked together to try to provide those children with an opportunity for a better life. There were good times and there were bad. I grew to love them and still keep up with them – one more than the other. One is now married with two children, is a tax payer and a productive member of our society. I take some measure of pride in his accomplishments.

I believe my life experiences, as well as my extensive experience in handling matters in the Family Court makes me well suited to hear cases that would come before me.

**The Piedmont Citizens Committee reported the following regarding Mr. Jones: “Constitutional Qualifications: Mr. Jones meets the constitutional qualifications for the judicial position she seeks. Ethical Fitness: Persons interviewed by the committee indicated that Mr. Jones is considered ethical. Professional and Academic Ability: The committee gave Mr. Jones an exceptional rating in this area. Character: The committee reported that Mr. Jones’s character is unquestionable. Reputation: Mr. Jones enjoys a good reputation in the community and among his peers. Physical and Mental Health: There is evidence that Mr. Jones is physically and mentally capable of performing the duties required of a judge of the Family Court. Experience: The committee recognized Mr. Jones extensive legal experience. Judicial Temperament: The committee gave Mr. Jones a good rating in this category.”**

(11) Commission Members’ Comments:

The Commission commented that Mr. Jones is an excellent candidate whose experience, expertise, and dedication in the area of family law is extraordinary. The Commission also noted Mr. Jones’s exceptional work ethic, evidenced by an average of 200 family court appearances a year, and commended him on his wealth of ideas for improving the family court system.

(12) Conclusion:

The Commission found Mr. Jones qualified and nominated him for election to the Family Court.

**Angela M. Killian**

**Family Court, Sixteenth Judicial Circuit, Seat 2**

**Commission’s Findings: QUALIFIED AND NOMINATED**

(1) Constitutional Qualifications:

Based on the Commission’s investigation, Ms. Killian meets the qualifications prescribed by law for judicial service as a Family Court judge.

Ms. Killian was born in 1973. She is 36-years old and a resident of York, South Carolina. Ms. Killian provided in her application that she has been a resident of South Carolina for at least the immediate past five years and has been a licensed attorney in South Carolina since 2001.

(2) Ethical Fitness:

The Commission’s investigation did not reveal any evidence of unethical conduct by Ms. Killian.

Ms. Killian demonstrated an understanding of the Canons of Judicial Conduct and other ethical considerations important to judges, particularly in the areas of ex parte communications, acceptance of gifts and ordinary hospitality, and recusal.

Ms. Killian reported that she has not made any campaign expenditures.

Ms. Killian testified she has not:

(a) sought or received the pledge of any legislator prior to screening;

(b) sought or been offered a conditional pledge of support by a legislator;

(c) asked third persons to contact members of the General Assembly prior to screening.

Ms. Killian testified that she is aware of the Commission’s 48-hour rule regarding the formal and informal release of the Screening Report.

(3) Professional and Academic Ability:

The Commission found Ms. Killian to be intelligent and knowledgeable. Her performance on the Commission’s practice and procedure questions met expectations.

Ms. Killian described her past continuing legal or judicial education during the past five years as follows:

Conference/CLE Name Date

(a) Foreclosure and Collection 06/11/04;

(b) Ethics with Oath 09/17/04;

(c) Revised Lawyers Oath with Ethic with Oath CLE 09/17/04;

(d) Hot Tips from the Coolest Domestic Law Practitioners 09/24/04;

(e) Nuts and Bolts of Family Court 02/18/05;

(f) SCDSS-OGC Seminar 09/03/05;

(g) SCDSS-OGC Seminar 03/17/06;

(h) Mini Summit on Justice for Children 08/22/06;

(i) SCDSS-OGC Seminar 12/08/06;

(j) SCDSS-OGC Seminar 02/27/09;

(k) Training for Attorneys Appointed in Abuse & Neglect

Cases in the 6th and 16th Judicial Circuits 02/27/09;

(l) SCDSS-OGC Seminar 09/07/07;

(m) SCDSS-OGC CLE 12/07/07;

(n) SCDSS- OGC CLE Seminar 12/12/08;

(o) SCDSS-OGC CLE 02/27/09.

Ms. Killian reported that she has taught the following law-related course:

“I have conducted a presentation on the overview of child protection proceedings for attorneys appointed in abuse and neglect cases in the 6th and 16th Judicial Circuits at training sponsored by the Children’s Law Center.”

Ms. Killian reported that she has published the following:

Killian, Angela M. Comment. *Mandatory minimum sentences coupled with multi-facet interventions: an effective response to domestic violence*. 6 U.D.C.L.Rev. 51-72 (2001).

(4) Character:

The Commission’s investigation of Ms. Killian did not reveal evidence of any founded grievances or criminal allegations made against her. The Commission’s investigation of Ms. Killian did not indicate any evidence of a troubled financial status. Ms. Killian has handled her financial affairs responsibly.

The Commission also noted that Ms. Killian was punctual and attentive in her dealings with the Commission, and the Commission’s investigation did not reveal any problems with her diligence and industry.

(5) Reputation:

Ms. Killian reported that she is not rated by Martindale-Hubbell.

(6) Physical Health:

Ms. Killian appears to be physically capable of performing the duties of the office she seeks.

(7) Mental Stability:

Ms. Killian appears to be mentally capable of performing the duties of the office she seeks.

(8) Experience:

Ms. Killian was admitted to the South Carolina Bar in 2001.

She gave the following account of her legal experience since graduation from law school:

(a) Managing Attorney for the Sixth Judicial Circuit, *The South Carolina Department of Social Services*, Lancaster, S.C., May, 2005-present.

Provides legal services and representation in family court and other courts on issues relative to child protection, foster care, adoption, adult protection, and economic services. Supervises the legal department for the Sixth Judicial Circuit.

(b) Staff Attorney. *The South Carolina Centers for Equal Justice*, Spartanburg, S.C., February 2003-May 2005.

Provided representation to low-income individuals and families in civil matters such as divorces, custody, evictions, claim and delivery, wills, expulsion and suspension hearings, school enrollment, wage claims and unemployment compensation.

(c) Staff Attorney. *Our Place DC*, Washington, DC, February 2002-December 2003.

Assisted women with landlord and tenant matters, parole matters, obtaining adequate institutional medical care, submitting sexual harassment claims, challenging discriminatory and unfair halfway house practices.

(d) Law Clerk. *Judge David L. Bazelon Center for Mental Health Law*, Washington, DC, October 2001-January 2002.

Drafted legal documents and conducted legal research in support of Bazelon’s advocacy efforts to challenge the unnecessary incarceration of people with mental illnesses who committed minor offenses.

Ms. Killian further reported regarding her experience:

While serving as staff attorney for the South Carolina Centers for Equal Justice, I handled a number of family law cases in which I pursued orders of protection, divorces, separate maintenance and support decrees, and child custody on behalf of my clients. The divorce cases that I handled involved such issues as child custody, equitable distribution of property and debt, alimony, and child support.

In my current position as managing attorney for the Sixth Judicial Circuit for the South Carolina Department of Social Services, I litigate a number of abuse and neglect proceedings including probable cause, removal, intervention, review, rule to show cause, and termination of parental rights hearings.

Additionally, I have handled a contested adoption hearing. For approximately about two years, I solely litigated all of the abuse and neglect proceedings in Chester, Fairfield, and Lancaster counties. I have also handled two name changes and a juvenile proceeding in family court.

Ms. Killian reported the frequency of her court appearances during the past five years as follows:

(a) federal: N/A;

(b) state: on average four to six court appearances per month.

Ms. Killian reported the percentage of her practice involving civil, criminal, and domestic matters during the past five years as follows:

(a) civil: 1%;

(b) criminal: 1%;

(c) domestic: 98%.

Ms. Killian reported the percentage of her practice in trial court during the past five years as follows:

(a) jury: N/A;

(b) non-jury: 100%.

Ms. Killian provided that she most often served as sole counsel in those matters.

The following is Ms. Killian’s account of her five most significant litigated matters:

(a) South Carolina Department of Social Services vs. A.H., T.H., and John Doe, Jack Doe, Robert Doe and James Doe, 2008-UP-298 (2008). This is an unpublished opinion. This case involves an appeal where a mother appealed the termination of her parental rights to the South Carolina Court of Appeals. Accordingly, the Court affirmed the family court’s ruling. This matter was significant in that the children are presently in the process of being adopted by persons who can provide them with loving and stable environments.

(b) South Carolina Department of Social Services vs. Charmaine H. and John Doe in the interests of Charnell N.T., 2006-UP-409 (2006). This is an unpublished opinion. This case involves an appeal where a mother appealed the termination of her parental rights to the South Carolina Court of Appeals. Accordingly, the Court affirmed the family court’s ruling. This matter is significant in that this child has been adopted and is now in a stable, nurturing, and loving environment.

(c) I have handled several termination of parental rights hearing in the past five years; however, I cannot release the names of those cases as that information is confidential pursuant to S.C. Code Ann. §63-7-1990. These cases are significant in that all of the children in those cases have been or are in the process of being adopted by persons who can provide them with safe, loving, and nurturing environments.

(d) I am currently handling an appeal before the South Carolina Court of Appeals where the mother appealed the removal of her children by the family court. This case has been pending for approximately two years. This case is significant in that mother over a period of time had subjected her children to psychological abuse and the children are now safe with their fathers. I cannot release the name of this case as that information is confidential pursuant to S.C. Code Ann. §63-7-1990.

(e) I have handled several family court cases involving victims of domestic violence where I obtained order of protections, divorces, and separate maintenance and support decrees for my clients. These cases are significant in that these abused women were able to leave their abusive partners.

Ms. Killian reported that she has not personally handled any civil appeals.

The following is Ms. Killian’s account of acriminal appeal she has personally handled:

“I have handled one criminal appeal before the Court of Common Pleas in York County. In this appeal, I appealed the decision from the municipal court.”

(9) Judicial Temperament:

The Commission believes that Ms. Killian’s temperament would be excellent.

(10) Miscellaneous:

Ms. Killian is not married. She does not have any children.

Ms. Killian reported that she was a member of the following bar associations and professional association:

South Carolina Bar.

Ms. Killian provided that she was a member of the following civic, charitable, educational, social, or fraternal organization:

“I am presently serving on the board of Voices of Diversity, a prospective nonprofit organization, in the Liberty Hill community located in York County. I am assisting Voices of Diversity in obtaining its 501(c) status.”

**The Piedmont Citizens Advisory Committee found Ms. Killian to be “Well Qualified” in the following areas: ethical fitness, professional and academic ability, physical health, and mental health. The citizens committee also found Ms. Killian to be “Qualified” in the remaining areas of constitutional qualifications, character, reputation, experience, and judicial temperament. Additionally, the citizens committee reported the following regarding Ms. Killian: “The Piedmont Citizens Committee interviewed Ms. Killian in Rock Hill on September 10, 2009. She impressed the Committee with her academic ability and knowledge of the law. However, the committee feels like she needs additional and more extensive experience to be an effective judge.”**

(11) Commission Members’ Comments:

The Commission commented that they were impressed by Ms. Killian’s intellect as evidenced by her services as editor-in-chief of her law school’s law review. They also noted that Ms. Killian has a bright legal future and is qualified for the position she seeks.

(12) Conclusion:

The Commission found Ms. Killian qualified and nominated her for election to the Family Court.

**ADMINISTRATIVE LAW COURT**

**Judge Carolyn Cason Matthews**

**Administrative Law Court, Seat 3**

**Commission’s Findings: QUALIFIED AND NOMINATED**

(1) Constitutional Qualifications:

Based on the Commission’s investigation, Judge Matthews meets the qualifications prescribed by law for judicial service as an Administrative Law Court judge.

Judge Matthews was born in 1950. She is 59 years old and a resident of Columbia, South Carolina. Judge Matthews provided in her application that she has been a resident of South Carolina for at least the immediate past five years and has been a licensed attorney in South Carolina since 1978.

(2) Ethical Fitness:

The Commission’s investigation did not reveal any evidence of unethical conduct by Judge Matthews.

Judge Matthews demonstrated an understanding of the Canons of Judicial Conduct and other ethical considerations important to judges, particularly in the areas of ex parte communications, acceptance of gifts and ordinary hospitality, and recusal.

Judge Matthews reported that she has not made any campaign expenditures.

Judge Matthews testified she has not:

(a) sought or received the pledge of any legislator prior to screening;

(b) sought or been offered a conditional pledge of support by a legislator;

(c) asked third persons to contact members of the General Assembly prior to screening.

Judge Matthews testified that she is aware of the Commission’s 48-hour rule regarding the formal and informal release of the Screening Report.

(3) Professional and Academic Ability:

The Commission found Judge Matthews to be intelligent and knowledgeable. Her performance on the Commission’s practice and procedure questions met expectations.

Judge Matthews described her past continuing legal or judicial education during the past five years as follows:

Conference/CLE Name Date

(a) “Ethics - Unintended Consequences” [Inn of Court] 1/20/09;

(b) “Alternative Dispute Resolution” S.C. Bar Convention 1/22/09;

(c) ”Environmental Permits” S.C. Bar Convention 1/23/09;

(d) “The Direction of Environmental Law” S.C. Bar Convention 1/23/09;

(e) “Peer Review and Medical Board Proceedings” [S.C. Bar] 1/24/09;

(f) “Environment and Natural Resources” S.C. Bar Convention 1/24/08;

(g) “Government Law” – S.C. Bar Convention 1/25/08;

(h) “S.C. Administrative and Regulatory Law Association Conf.” 9/19/08;

(i) “Central Panel Administration Conference” 9/9-12/08;

(j) “IT 101 for Attorneys” – SCWLA 6/14/07;

(k) “Punitive Damages, Due Process” 9/7/2007;

(l) “John Belton O’Neall Inn of Court” 9/18/07;

(m) “S. C. Administrative and Regulatory Law Association” 9/21/07;

(n) “The Changing Face of Justice” N.C./S.C. Bar Conference 10/19/07;

(o) “How to Avoid Major Missteps” – SCWLA 0/19/07;

(p) “Enhancing Judicial Bench Skills”- NAALJ 10/28-31/07;

(q) “Health Care Law“ S.C. Bar Convention 1/27/06;

(r) “Environmental and natural Resources”–Bar Convention 1/28/06;

(s) “New Court Developments” 2/21/06;

(t) “SCAARLA Annual Seminar” 9/22/06;

(u) “Ladder to Success; S.C. Women Lawyers Assn.” 10/13/06;

(v) “Ethics” – Richland County Bar Association 11/3/06;

(w) “Health Care Law” – S.C. Bar Convention 1/20/05;

(x) “Administrative and Regulatory Law” S.C. Bar Convention 1/21/05;

(y) “Environment & Natural Resources” S.C. Bar Convention 1/22/05;

(z) “Tort Reform” 2/22/05;

(aa) “S. C. Legal History” 9/20/05;

(bb) “SCAARLA Educational Seminar” 9/22/05;

(cc) “ABC’s of Ethics” 10/14/05.

Judge Matthews reported that she has taught the following law-related courses:

(a) “Administrative Law-Bridge the Gap” 3/10/2009;

(b) “Tips from the Bench – Administrative Law” 2/14/08;

(c) “Administrative Law – Bridge the Gap” 3/10/08;

(d) “Administrative Law – Bridge the Gap” 5/12/08;

(e) “The State of Administrative Law in South Carolina” 9/10/08;

(f) “Rules! Rules! Rules! – Success with Judge and Jury” 12/12/08;

(g) “Tips from the Bench – Administrative Law” 2/10/08;

(h) “Administrative Law – Bridge the Gap” 3/12/07;

(i) “Administrative Law – Bridge the Gap” 5/14/07;

(j) “Tips from the Bench VIII” – Administrative Law 2/10/07;

(k) “Administrative Law – Bridge the Gap” 3/10/06;

(l) “Administrative Law – Bridge the Gap” 5/9/06;

(m) “Tips from the Bench VII – Administrative Law” 2/15/06;

(n) “Administrative Law – Bridge the Gap” 3/09/05;

(o) “Administrative Law – Bridge the Gap” 5/12/05;

(p) “Tips from the Bench VI – Administrative Law” 12/12/05;

(q) “Administrative Law – Bridge the Gap” 3/11/04;

(r) “Administrative Law – Bridge the Gap” 5/12/04;

(s) “Tips from the Bench V – Administrative Law” 12/11/04;

(t) “Tips from the Bench IV – Administrative Law” 12/12/0;

(u) “Ethics for State Government Attorneys” 11/14/03;

(v) “The Lighter Side of the Law” 8/07/03;

(w) “Bridge the Gap – Administrative Law” 5/12/03;

(x) “How Judges Perceive Lawyers” – USC Law School 3/26/03;

(y) “Bridge the Gap – Administrative Law” 3/08/03;

(z) “Bridge the Gap – Administrative Law” 3/10/02;

(aa) “Bridge the Gap – Administrative Law” 5/14/02;

(bb) “Ethics and Professionalism – 8 Commandments” 9/12/02;

(cc) “Tips from the Bench III – Administrative Law” 12/13/02;

(dd) “Judicial Independence” – SCWLA Seminar Panel 9/2000;

(ee) “1994 Legislative Update – Natural Resources” 6/3/94;

(ff) “South Carolina State Government Restructured 9/1993;

(gg) “Res Judicata & Collateral Estoppel”, A.G.’s Office Seminar 1986;

(hh) “Appellate Practice” – Presentation to S. C. Circuit Judges 1982.

Judge Matthews reported that she has not published any books or articles.

(4) Character:

The Commission’s investigation of Judge Matthews did not reveal evidence of any founded grievances or criminal allegations made against her. The Commission’s investigation of Judge Matthews did not indicate any evidence of a troubled financial status. Judge Matthews has handled her financial affairs responsibly.

The Commission also noted that Judge Matthews was punctual and attentive in her dealings with the Commission, and the Commission’s investigation did not reveal any problems with her diligence and industry.

(5) Reputation:

Judge Matthews reported that her last available Martindale-Hubbell rating was AV.

(6) Physical Health:

Judge Matthews appears to be physically capable of performing the duties of the office she seeks.

(7) Mental Stability:

Judge Matthews appears to be mentally capable of performing the duties of the office she seeks.

(8) Experience:

Judge Matthews was admitted to the South Carolina Bar in 1978.

She gave the following account of her legal experience since graduation from law school:

Staff Attorney, South Carolina Supreme Court (1978-81)

Reviewed and researched civil and criminal appeals; Recommended disposition by Court; supervised junior Staff Attorneys. Assisted at settlement conferences; Drafted Court Rules.

Law Clerk, South Carolina Supreme Court Justice George T. Gregory, Jr. (1981-82)

Reviewed and researched civil and criminal appeals and motions; Drafted opinions, rules, and Orders for Justice Gregory; Assisted at hearings on Extraordinary Writs such as Mandamus and Supersedeas; reviewed Attorney Disciplinary proceedings.

Assistant Attorney General, State of South Carolina (1982-86)

Researched and wrote more than 200 appellate briefs and argued more than 80 appeals before S. C. Supreme Court, S. C. Court of Appeals, and U. S. Supreme Court; Coordinated appeals with Solicitors; Prosecuted Medical Board and other licensing board cases. Wrote opinions as directed by the Attorney General; Represented State Agencies; Coordinated Continuing Legal Education Seminars; Chaired first Law Enforcement Leadership Conference.

Counsel, South Carolina House of Representatives Judiciary Committee, David H. Wilkins, Chairman (1986-88)

Managed research and drafting of Legislation and amendments for all Legislation referred to Judiciary Committee. Coordinated legislative efforts with Governor’s Office, Legislative staff, and state agencies. Supervised staff attorneys and law clerks.

Partner, Nelson Mullins Riley & Scarborough (1988-96)

Administrative practice before State agencies such as DHEC, Department of Insurance, and Public Service Commission; Governmental Relations; Appellate practice.

Partner, Woodward Cothran & Herndon (1996-98)

Commercial Litigation; Appellate and Administrative Law practice before state agencies, including DHEC, Insurance Commission, and PSC. State and Federal Governmental Relations.

Carolyn C. Matthews, Attorney and Counselor at Law (December 1998-May, 1999)

Administrative and Appellate Law Practice; State and Federal Governmental Relations

Administrative Law Judge, Seat #3 (June 2, 1999-present; reelected February 9, 2000; reelected February 2, 2005)

Appeals from 49 Licensing Boards of LLR and DSS, HHS, DOC, OMVH, and DOC

Contested Cases from State Agencies, including: DHEC, DOR, DNR, Department of Insurance, DHHS, DOT, DSS, OCRM, SLED, County Auditors and Assessors

Regulatory Hearings from State agencies governed by a single director;

Injunctions, Petitions for Stay. and other procedural Motions.

Judge Matthews reported that she has held the following judicial office:

Administrative Law Judge, Seat #3, Elected June 2, 1999; reelected February 9, 2000; Reelected February 2, 2005

By statute, the Administrative Law Court has jurisdiction over (1) Contested Cases from State Agencies [including DHEC, DOR, DOT, DHHS, DSS, Department of Insurance, DNR, and SLED]; (2) Appeals from the 50 Licensing Boards of LLR and other agencies [including Medicaid Appeals, State Fire Marshal appeals; Appeals of Day care and Foster home license revocations] and (3) Hearings regarding the need for and reasonableness of Regulations promulgated by agencies governed by a single director, such as the Department of Insurance and LLR.

By Supreme Court case law, Al-Shabazz v. State, 338 S.C. 354, 527 S.E.2d 742(2000), the ALC was given jurisdiction over inmates’ appeals of non-collateral sentencing matters or administrative matters from the Department of Corrections.

The Supreme Court of South Carolina has held that the Administrative Law Court does not have jurisdiction to rule on the constitutionality of statues or regulations. Administrative Law Judges have jurisdiction to rule only on whether a statute or regulation has been unconstitutionally applied.

Judge Matthews provided the following list of her most significant orders or opinions:

(a) Heath Hill v. S. C. DHEC and SCE&G [08-ALJ-07-0183-CC, July 10, 2008]

This procedural order granted a Motion to Lift Automatic Stay under S. C. Code §1-23-600(H)(4), which became effective only 9 days before the hearing on this Motion. It is significant because it demonstrates the magnitude of the decisions entrusted to the Administrative Law Court—whether SCE&G would be allowed to proceed with construction of a landfill to dispose of byproducts of coal combustion during the pendency of the contested case. The new statute required me to hold a hearing within 30 days after the Motion To Lift Stay was filed, and to issue an Order within 15 days after the four-hour hearing on the motion.

I ruled that SCE&G had satisfied the statutory standard for lifting the stay; i.e. “…for good cause shown or if no irreparable harm will occur….” Moreover, If the legislature imposes a statutory time frame, Administrative Law Judges are required to comply with it. I am the only Administrative Law Judge who has ruled on a Motion to Lift Stay since the statute was revised.

(b) Sonoco Products Company v. S.C. Department of Revenue

[03-ALJ-17-0440-CC, August 30, 2005], aff’d. Op. No. 26502

(S.C. Sup. Ct., filed 6/9/08)

In this property assessment case, the DOR assessed three of Sonoco’s corporate office buildings, located across a public street and a railroad from its manufacturing plant, at a 10.5% ratio as Manufacturing-related property.

Sonoco contended that the office buildings were not “contiguous” to the plant within the meaning of S.C. Code Ann. §12-43-220(a), and should be assessed at a 6.5% ratio.

I affirmed the DOR, ruling that the buildings were contiguous to the Plant. The Circuit Court reversed; the S.C. Supreme Court reversed the Circuit Court and affirmed my Order.

This Order is significant because it addresses the primary rule of statutory construction--ascertaining the intent of the Legislature.

(c) Charleston County Public Works v. Office of Coastal Resource

Management, DHEC [02-ALJ-07-0262-CC, August 3, 2003]

OCRM, although ostensibly granting a permit to build a causeway, instead required Charleston County to build a bridge, which was outside the scope of the permit application. I reversed OCRM’s decision on the grounds that (1) its action constituted an “unwarranted exercise of discretion” under S. C. Code Ann.§1-23-380(A)(6) and (2) the public was denied due process of law when OCRM failed to give notice of permit conditions which radically altered the original application.

This Order is significant because it affirms the public’s right to valid notice of agency environmental permitting decisions, and because it deals with the rare issue of “unwarranted exercise of discretion.”

(d) Oncology and Hematology Associates of S.C., LLC d/b/a Cancer Centers of the Carolinas v. S.C. DHEC and Spartanburg Regional Medical Center

[03-ALJ-07-0158-CC, June 24, 2004]; DHEC Board affirmed; Circuit Court affirmed; appealed to Court of Appeals; Supreme Court granted *certiorari.*

This Order demonstrates the intricacy and complexity of the review accorded DHEC contested cases for Certificates of Need for hospitals. This case was tried for only one week, but with the intensive discovery which has become standard in CON cases, they are now requiring 3-4 weeks to try.

The Order includes extensive fact-finding and detailed analysis of the law.

(e) Anonymous No. 1, Registered Dental Hygienist, and Anon. No. 2, RDH v. S. C. Department of Labor, Licensing, and Regulation [06-ALJ-11-0562-AP And 06-ALJ-11-0563-AP, October 25, 2007; on appeal to Court of Appeals]

Two Dental Hygienists were disciplined by the Board of Dentistry for failing to meet the standard of care in placing sealants on children’s teeth in a school setting. This Order is an example of the Administrative Law Court’s Legislative duty to review sanctions imposed by more than 40 Licensing Boards, including those who regulate Doctors, Nurses, Realtors, and Cosmetologists in order to protect the public health and welfare. An Appeal to the Administrative Law Court is vital to give the licensees and the licensing boards an opportunity to be fully heard.

Judge Matthews further reported the following regarding unsuccessful candidacies:

“I was a candidate for Circuit Court in 1995, but withdrew when it became apparent I could not win. I was a candidate for the Court of Appeals, Seat #1 in 2004. I was found “Qualified, but not nominated” by the Judicial Merit Selection Commission. The Honorable Paul Short won that election. I was a candidate for Chief Judge of the Administrative Law Court in 2009, but withdrew when I did not have the requisite votes.”

(9) Judicial Temperament:

The Commission believes that Judge Matthews’s temperament has been and would continue to be excellent.

(10) Miscellaneous:

Judge Matthews is married to John Andrew McAllister, Jr. She has three children.

Judge Matthews reported that she was a member of the following bar associations and professional associations:

(a) S.C. Bar Association [November 8, 1978-present]:

S.C. Bar Task Force on Professional Satisfaction and Retention [2008-present]

S.C. Bar House of Delegates [1998-1999]

Mentor, S. C. Young Lawyers Division [1996-1999]

S.C. Bar Legislative Counsel Committee [1991-1996]

S.C. Bar Committee on Continuing Legal Education [1994-1997]

S.C. Bar practice and Procedure Committee: Drafted Legislation creating Court of Appeals [1993-1994];

(b) Richland County Bar Association [1978-present]

Chair, Legal Services Committee [1996-1999]

Chair, Richland County Bar Programs Committee [1991-1992];

(c) S.C. Women Lawyers Association [1995-present; elected Secretary 2009; Board of Directors [1995-2001];

(d) National Association of Women Lawyers [2003-present];

(e) National Association of Administrative Law Judges [1999-present];

(f) S.C. Administrative and Regulatory Law Association [2000-present];

(g) John Belton O’Neall Inn of Court [2002-present];

(h) Central Panel Administrative Law Courts Association [1999-present].

Judge Matthews provided that she was a member of the following civic, charitable, educational, social, or fraternal organizations:

(a) Governors Advisory Committee to Study the Commission on Women (Jan. 2004-2006);

(b) Leadership South Carolina (1993 Graduate);

(c) Furman University National Development Council (1998-1999);

(d) First Presbyterian Church of Columbia, S.C.

Judge Matthews further reported:

The General Assembly of South Carolina has conferred on me the privilege of serving the State as an Administrative Law Judge for the past ten years. Because Administrative Law Judges hear contested cases from many state agencies, including DHEC, the Department of Revenue, and the Department of Transportation, we are affording due process and an opportunity to be heard to many citizens of South Carolina who have no other forum.

Contested cases involve matters as diverse as Certificates of Need for Hospitals, Designations as a Minority Business Enterprise, Environmental permitting and penalties, Property Tax Assessment Appeals from every county in the state, and permits for bridges and docks in the eight coastal counties. We also hear appeals from the 49 Licensing Boards of LLR, including doctors, dentists, nurses, realtors, and general contractors who have been disciplined by their respective Boards, as well as appeals from other state agencies. Our orders affect the livelihood of these individuals and protect the public welfare and safety.

In my legal career, I have been fortunate to serve as Staff Attorney at the S.C. Supreme Court, as Law Clerk to the late Chief Justice George T. Gregory, Jr., and as an Assistant Attorney General for the State of South Carolina. During my tenure with the Attorney General’s Office, I was assigned to the Criminal Appeals Division, and worked closely with the Solicitors in reviewing transcripts, writing more than 200 appellate briefs, and arguing more than 80 appeals solo before the Supreme Court and Court of Appeals in upholding criminal convictions. I also prosecuted licensees on behalf of the Medical Board and several other Boards, and handled the Boards’ appeals.

I have also served as Counsel to the House Judiciary Committee. In that position, I worked with all members of the General Assembly in drafting legislation and amendments, reviewing legislation and regulations, and being a part of the process of statutory enactment. While serving as attorney to the Chairman of the House Judiciary Committee, I received a true understanding of the fundamental principle of statutory construction; that is, that the Legislature’s intent is paramount.

In ten years of private practice, I concentrated on administrative and appellate law and governmental relations. I represented clients before state agencies, including the Department of Insurance, DHEC, OCRM, and the Public Service Commission. I also participated in complex civil and federal court litigation. I became a partner at the State’s largest law firm

I am fortunate to have been born in South Carolina, to parents who instilled in me and my three sisters many values. We were taught to treat all persons equally, and to “do unto others as we would have them do unto us.” I saw my parents and all my relatives treating people of all classes, races, and creeds with equal compassion, humility, and dignity. We were taught that we could achieve anything through education, hard work, and perseverance. I was divorced when my daughter was only 5 years old, and, as a single parent, I had to work very long hours as a Assistant Attorney General, House Judiciary Committee Counsel, and to become a partner at the largest law firm in the state [I was the only single parent in the firm of more than 200 lawyers at that time.] I understand the demands of the private practice of law; wherever possible, I try to accommodate attorneys’ schedules, and will never embarrass an attorney in the courtroom.

I am one of the few attorneys in the state who has worked for all three branches of state government– Judicial, Legislative, and Executive– providing a unique perspective and fundamental understanding of the Separation of Powers Doctrine. I have practiced law for 31 years and have tried, heard, and appealed a wide variety of cases. My legal experience is extremely broad and diverse. I am 58 years old and believe I can continue to contribute on the Administrative Law Court.

**The Midlands Citizen’s Committee on Judicial Qualification found Judge Matthews to be “Well-Qualified” for each of the nine evaluative criteria: constitutional qualifications, ethical fitness, professional and academic ability, character, reputation, physical health, mental stability, experience, and judicial temperament. In summary, the Committee stated, “Judge Matthews is an asset to our state judiciary, and we believe she has honorably served our state in a most outstanding manner. We believe she is most eminently qualified to continue her service on the Administrative Law Court.”**

(11) Commission Members’ Comments:

The Commission commented that Judge Matthews’ is well-qualified for continued service on the Administrative Law Court. They noted she has a good grasp of the rules and gave at the Public Hearing a very reasoned answer to her obligation if a conflict develops.

(12) Conclusion:

The Commission found Judge Matthews qualified and nominated her for re-election to the Administrative Law Court.

**Latonya Dilligard Edwards**

**Administrative Law Court, Seat 6**

**Commission’s Findings: QUALIFIED AND NOMINATED**

(1) Constitutional Qualifications:

Based on the Commission’s investigation, Ms. Edwards meets the qualifications prescribed by law for judicial service as an Administrative Law Court judge.

Ms. Edwards was born in 1970. She is 39 years old and a resident of Irmo, South Carolina. Ms. Edwards provided in her application that she has been a resident of South Carolina for at least the immediate past five years and has been a licensed attorney in South Carolina since 1997. She was also admitted to the North Carolina Bar in 2003.

(2) Ethical Fitness:

The Commission’s investigation did not reveal any evidence of unethical conduct by Ms. Edwards.

Ms. Edwards demonstrated an understanding of the Canons of Judicial Conduct and other ethical considerations important to judges, particularly in the areas of ex parte communications, acceptance of gifts and ordinary hospitality, and recusal.

Ms. Edwards reported that she has made $35.93 in campaign expenditures for a badge and report covers.

Ms. Edwards testified she has not:

(a) sought or received the pledge of any legislator prior to screening;

(b) sought or been offered a conditional pledge of support by a legislator;

(c) asked third persons to contact members of the General Assembly prior to screening.

Ms. Edwards testified that she is aware of the Commission’s 48-hour rule regarding the formal and informal release of the Screening Report.

(3) Professional and Academic Ability:

The Commission found Ms. Edwards to be intelligent and knowledgeable. Her performance on the Commission’s practice and procedure questions met expectations.

Ms. Edwards described her past continuing legal or judicial education during the past five years as follows:

Conference/CLE Name Date

(a) Legal Update 02/18/04;

(b) 2004 Property Rights & Land Use 10/29/04;

(c) 2004 Revised Lawyer’s Oath 12/04/04;

(d) Workers’ Compensation Update 08/26/05;

(e) 29th Annual Educational Conference on

Workers’ Compensation 10/23-26/05;

(f) 2005 Local Government Attorneys’ Institute 12/09/05;

(g) S.C. Workers’ Compensation 09/26/06;

(h) S.C. Black Lawyers’ Retreat 09/28/06;

(i) 30th Annual Educational Conference on

Workers’ Compensation 10/22-25/06;

(j) Government Law Update 06/20/08;

(k) Dissecting a Workers’ Compensation Case 09/05/08;

(l) Judicial Selection in South Carolina 09/17/08.

Ms. Edwards reported that she has taught the following law-related courses:

(a) On September 26, 2006, I spoke to a group of insurance industry professionals about how to perfect a Second Injury Fund reimbursement claim.

(b) On September 5, 2008, I spoke at a Continuing Legal Education Seminar about the impact of the 2007 Workers’ Compensation Reform Act on the S.C. Second Injury Fund.

Ms. Edwards reported that she has published the following:

(a) While attending Burke High School in Charleston, S.C., one of my poems was published by the Charleston County Young Writers’ Conference on November 21, 1987.

(b) While attending Johnson C. Smith University, five of my poems were published in the university magazine from 1990-91.

(c) In 1999, one of my poems was published in an anthology by Gateway Publishers.

(d) In 2008, my article entitled, The South Carolina Second Injury Fund Sunrise1972 - Sunset 2013, was published in the May 2008 edition of the *South Carolina Lawyer*.

(4) Character:

The Commission’s investigation of Ms. Edwards did not reveal evidence of any founded grievances or criminal allegations made against her. The Commission’s investigation of Ms. Edwards did not indicate any evidence of a troubled financial status. Ms. Edwards has handled her financial affairs responsibly.

The Commission also noted that Ms. Edwards was punctual and attentive in her dealings with the Commission, and the Commission’s investigation did not reveal any problems with her diligence and industry.

(5) Reputation:

Ms. Edwards reported that she is not rated by Martindale-Hubbell.

(6) Physical Health:

Ms. Edwards appears to be physically capable of performing the duties of the office she seeks.

(7) Mental Stability:

Ms. Edwards appears to be mentally capable of performing the duties of the office she seeks.

(8) Experience:

Ms. Edwards was admitted to the South Carolina Bar in 1997.

She gave the following account of her legal experience since graduation from law school:

August 1996-February 1998: I served as Federal Judicial Law Clerk to Honorable Richard C. Erwin, Senior United States District Court Judge for the Middle District of North Carolina. I drafted memorandum opinions on various federal issues ranging from employment law to criminal law. One memorandum opinion that I drafted involved a securities case of first impression and was discussed in the Wall Street Journal and the local newspapers.

May 1998-June 1998: I served as a contract attorney for John R. Harper, Esquire and Hemphill P. Pride, Esquire, where I performed legal research and wrote briefs on employment law and civil rights issues.

July 1998-October 1999: I served as Assistant County Attorney for Richland County. I performed legal research, wrote briefs and represented Richland County before Circuit Courts, Federal Court, Master-in-Equity and the Administrative Law Court. I provided legal opinions for the Human Resources Department on employment issues such as the Americans with Disabilities Act, and the Family Medical Leave Act. I also served as counsel to the Zoning Board of Appeals, Planning Commission, and the Procurement Review Panel.

October 1999-July 2004: As Chief Legal Counsel for the South Carolina Commission for the Blind, I provided advice and counsel to the Board of Commissioners and agency administration on employment matters, Americans with Disabilities Act, and the Rehabilitation Act. I represented the agency in arbitration and mediation. I successfully defended the agency before the state grievance panel, the South Carolina Human Affairs Commission and the Equal Employment Opportunity Commission.

July 2004-September 2005: Family Medical Leave. During my leave, I attended Continuing Legal Education Courses and performed document review on cases involving insurance and pharmaceutical industries.

January 2000-September 2005: As a contract attorney for the consulting company, Karaton Services, I reviewed and drafted various contracts, provided legal advice to the company CEO and performed legal research.

October 2005-present: As General Counsel for the South Carolina Second Injury Fund, I represent the agency before the South Carolina Workers’ Compensation Commission, Circuit Courts throughout the state, the Court of Appeals, and the Supreme Court; provide advice to agency administration on various procedural and legal matters; manage the agency’s associate counsel program and reduced the departmental budget by 850k in FY 08/09.

Ms. Edward further reported:

“As Assistant County [sic] for Richland County I appeared before the Administrative Law Court on Richland County’s Motion to [I]ntervene on a matter brought by the Department of Revenue. I have not appeared before the Administrative Law Court since that time.”

Ms. Edwards reported the frequency of her court appearances during the last five years as follows:

(a) Federal: 1;

(b) State: 3-5 times per year. I also appear before the S.C. Worker’s Compensation Commission in approximately 10-15 cases per month.

Ms. Edwards reported the percentage of her practice involving civil, criminal, and domestic matters during the last five years as follows:

(a) civil: 100%;

(b) criminal: 0%;

(c) domestic: 0%.

Ms. Edwards reported the percentage of her practice in trial court during the last five years as follows:

(a) Jury: 0%;

(b) Non-jury: 100%.

Ms. Edwards provided that she most often served as sole counsel.

The following is Ms. Edwards’s account of her five most significant litigated matters:

(a) Triton PCS, Inc. v. Richland County Zoning Board of Appeals

United States District Court, Columbia Division, 3:98-2607-19

The Richland County Zoning Board of Appeals denied Triton’s request for a special exception to erect a cellular phone tower in an unincorporated area of Richland County. Triton sought relief in the United States District Court under the Federal Telecommunications Act. Judge Dennis Shedd affirmed the decision of the Richland County Zoning Board. The case was significant because it tested the power of county government to promulgate land use rules and regulations that serve the best interest of the county.

(b) Lillie Harvin d/b/a Secrets II v. S.C. Department of Revenue

98 ALJ-17-0635-CC

The South Carolina Department of Revenue initiated proceedings to revoke the liquor license of Secrets II, a nightclub adjacent to a residential community. Richland County filed a Motion to Intervene in order to be heard on the significant amount of resources that the Richland County Sheriff’s Department had expended responding to complaints of criminal activity occurring at the establishment. Judge John D. Geathers heard and granted Richland County’s motion. The liquor license was ultimately revoked and the establishment was closed. The case was significant because it was an excellent example of how county and state entities combined resources to close and establishment that was fostering residential blight.

(c) Joe Urbanek v. S.C. Commission for the Blind

United States District Court, Columbia Division, 3:03-1835-22

A blind vendor sued the S.C. Commission for the Blind because he was not selected as the blind vendor for full food service operations at Fort Jackson. The aggrieved vendor sued alleging that the S.C. Commission for the Blind’s selection of another vendor violated federal law. Judge Cameron Currie held that the S.C. Commission for the Blind’s selection of another vendor was consistent with the Federal Randolph Sheppard regulations and upheld the agency’s vendor selection. The case was significant because Fort Jackson was the first federal facility in the state to utilize the Randolph Sheppard Act for its vendor selection.

(d) Springs Industries v. S.C. Second Injury Fund

S.C. Court of Appeals, 2007-CP-46-00475

A self insured carrier appealed the decision of the S.C. Workers’ Compensation Commission and the Circuit Court denying additional reimbursement beyond what was memorialized in the Agreement to Reimburse, which was signed by all parties and approved by the S.C. Workers’ Compensation Commission. Carrier sought to unilaterally amend the agreement to include reimbursement for additional medical costs not contemplated by the parties at the time the agreement was signed. The South Carolina Court of Appeals affirmed the Circuit Court decision denying additional reimbursement. This case is significant because it clarifies the extent and scope of contracts in the reimbursement context.

(e) Transportation Insurance Company v. S.C. Second Injury Fund

The South Carolina Second Injury Fund submitted a Petition in the South Carolina Supreme Court’s Original Jurisdiction requesting that six Second Injury Fund appeals involving the same issue be transferred from the various Circuit Courts to the Supreme Court for expedited resolution. In May 2009, the S.C. Supreme Court granted the Second Injury Fund’s petition and initial briefs are due in August 2009. This case is significant because an expedited decision will allow the Fund to adequately forecast its liabilities as it approaches the critical winding down period. It will also decide whether a statute of limitations applies to reimbursement cases.

The following is Ms. Edwards’s account of five civil appeals she has personally handled:

(a) A.O. Smith Corp. v. S.C. Second Injury Fund,

S.C. Court Appeals 2006-CP-13-089

The Carrier withdrew its appeal on the morning of oral argument;

(b) State Accident Fund v. S.C. Second Injury Fund

S.C. Court of Appeals, 2008-96866. This case is still pending;

(c) Overnight Transportation v. S.C. Second Injury Fund

S.C. Court of Appeals, 2006-CP-1923.

Carrier’s petition for rehearing was denied on January 26, 2009;

(d) Springs Industries v. S.C. Second Injury Fund

S.C. Court of Appeals, 2007-CP-46-00475.

On May 5, 2009, the S.C. Court of Appeals issued an unpublished opinion affirming the lower court’s decision denying Carrier’s request for additional reimbursement;

(e) Transportation Insurance Company v. S.C. Second Injury Fund

S.C. Supreme Court. Initial briefs are due August 2009.

Ms. Edwards reported that she has not personally handled any criminal appeals.

Ms. Edwards further reported the following regarding an unsuccessful candidacy:

“In March 2009, I applied for Administrative Law Court Seat 5. I was found qualified and nominated. However, I withdrew prior to the vote by the General Assembly.”

(9) Judicial Temperament:

The Commission believes that Ms. Edwards’s temperament would be excellent.

(10) Miscellaneous:

Ms. Edwards is married to Thomas Stephen Edwards. She has two children.

Ms. Edwards reported that she was a member of the following bar associations and professional associations:

(a) South Carolina Bar Association;

(b) South Carolina Black Lawyers’ Association;

(c) South Carolina Women Lawyers’ Association;

(d) North Carolina Bar Association.

Ms. Edwards provided that she was a member of the following civic, charitable, educational, social, or fraternal organizations:

(a) Alpha Kappa Alpha Sorority, Incorporated;

(b) Kingston Forest Homeowners’ Association, Secretary;

(c) Burke High School Foundation member;

(d) Columbia Community Orchestra, cellist;

(e) South Carolina Executive Institute 2008 Graduate;

(f) State EEO professional certification.

Ms Edwards further reported:

In 1992, I worked in the Reading Recovery Program at Angel Oak Elementary School in John’s Island, South Carolina and I volunteered at the Charleston County Public Defenders’ Office. During law school, I worked at the Franklin County Public Defenders’ Office in Columbus, Ohio from May-December 1994. During the summer of 1995, I was a Summer Associate at Rosen Rosen & Hagood in Charleston, South Carolina.

**The Midlands Citizens Committee interviewed Ms. Edwards on September 23, 2009, and found her “Well-Qualified” for each of the nine evaluative criteria: constitutional qualifications, ethical fitness, professional and academic ability, character, reputation, physical health, mental stability, experience, and judicial temperament. In summary, the Committee found that, “Ms. Edwards is eminently qualified to serve as an Administrative Law Judge. We believe she would serve the Administrative Law Court in a most outstanding manner.”**

(11) Commission Members’ Comments:

The Commission commented that Ms. Edwards has a great deal of determination, and, throughout her educational and professional life, has exhibited the ability to achieve very favorable results. They also noted that Ms. Edwards is a tenacious person, which would assist her in ably serving on the Administrative Law Court.

(12) Conclusion:

The Commission found Ms. Edwards qualified and nominated her for election to the Administrative Law Court.

**B. Keith Griffin**

**Administrative Law Court, Seat 6**

**Commission’s Findings: QUALIFIED, BUT NOT NOMINATED**

(1) Constitutional Qualifications:

Based on the Commission’s investigation, Judge Griffin meets the qualifications prescribed by law for judicial service as an Administrative Law Court judge.

Judge Griffin was born in 1974. He is 35 years old and is a resident of Sumter, South Carolina. Judge Griffin provided in his application that he has been a resident of South Carolina for at least the immediate past five years and has been a licensed attorney in South Carolina since 1999.

(2) Ethical Fitness:

The Commission’s investigation did not reveal any evidence of unethical conduct by Judge Griffin.

Judge Griffin demonstrated an understanding of the Canons of Judicial Conduct and other ethical considerations important to judges, particularly in the areas of ex parte communications, acceptance of gifts and ordinary hospitality, and recusal.

Judge Griffin reported that he has not made any campaign expenditures in announcing his candidacy to the members of the General Assembly.

Judge Griffin testified he has not:

(a) sought or received the pledge of any legislator prior to screening;

(b) sought or been offered a conditional pledge of support by a legislator;

(c) asked third persons to contact members of the General Assembly prior to screening.

Judge Griffin testified that he is aware of the Commission’s 48-hour rule regarding the formal and informal release of the Screening Report.

(3) Professional and Academic Ability:

The Commission found Judge Griffin to be intelligent and knowledgeable. His performance on the Commission’s practice and procedure questions met expectations.

Judge Griffin described his past continuing legal or judicial education during the past five years as follows:

Conference/CLE Name Date

(a) 18th Criminal Practice in S.C. 02-27-09;

(b) Magistrate’s Mandatory School 11-07-08;

(c) Annual Legislative Seminar and Reception 03-05-08;

(d) Magistrate’s Mandatory School 11-02-07;

(e) Annual Summary Court Convention 09-06-07;

(f) Legislative Reception and Seminar 03-07-07;

(g) Ultimate Trial Notebook 11-17-06;

(h) 16th Annual Criminal Practice in S.C. 11-10-06;

(i) Magistrate’s Mandatory School 11-03-06;

(j) Handling DUI Cases in the New Millennium 04-15-05;

(k) Legislative Reception and Seminar 03-09-05;

(l) Magistrate’s Mandatory School 11-19-04;

(m) Judicial Oath of Office 1-19-04;

(n) Revised Lawyer’s Oath CLE 10-06-04.

Judge Griffin reported that he has taught the following law-related courses:

(a) “I have taught classes in the Paralegal and Criminal Justice programs at Central Carolina Technical College since 2003. I continue to teach classes at CCTC and have two classes to teach in the fall semester. All of the classes taught in the Paralegal Program are all core courses for prospective paralegals wishing to obtain an associates’ degree in paralegal studies. I have taught Real Estate/Property (covers future interests, deeds, types of property, landlord tenant matters, closing and title insurance issues, and easements); Wills and Estates; Torts; Workers Compensation; Legal Writing; Legal Bibliography (A legal research course); Criminal Law (a basic introduction to elements and offenses), and Judicial Process (a class that introduces students how a criminal case proceeds through the system). I have also served on the Central Carolina Technical College Advisory Committee to the Paralegal Department for the last several years.”

(b) “I have also taught as a criminal law instructor for the Troy University Shaw AFB campus in 2008. I taught two classes, Seminar in the Administration of Justice, and Court Administration, both of which were required for prospective students to obtain a master’s degree. Students were required in each class to submit a research paper which comprised the majority of their grade. According to the Troy University course catalog, Court Administration (CJ 6624) is “a study of the judicial process from the standpoint of its situational and legal basis, organization and management, and the technical aspects of the judicial function at both trial and appellate levels.” The course titled Seminar in the Administration of Justice (CJ 6622) is described in the course catalog as “a critical examination of the administration of the criminal justice system in America, including the myths and misconceptions it generates, the controversial issues and trends it produces, and the current and future policies and administrative decision making it promotes.” Both classes were taught in a very open fashion. I would lecture on the materials in one segment of the class and the students would discuss the materials lectured while I basically served as a moderator.”

Judge Griffin reported that he has not published any books or articles

(4) Character:

The Commission’s investigation of Judge Griffin did not reveal evidence of any founded grievances or criminal allegations made against him. The Commission’s investigation of Judge Griffin did not indicate any evidence of a troubled financial status. Judge Griffin has handled his financial affairs responsibly.

The Commission also noted that Judge Griffin was punctual and attentive in his dealings with the Commission, and the Commission’s investigation did not reveal any problems with his diligence and industry.

(5) Reputation:

Judge Griffin reported that his he is not rated by Martindale-Hubbell.

(6) Physical Health:

Judge Griffin appears to be physically capable of performing the duties of the office he seeks.

(7) Mental Stability:

Judge Griffin appears to be mentally capable of performing the duties of the office he seeks.

(8) Experience:

Judge Griffin was admitted to the South Carolina Bar in 1999.

He gave the following account of his legal experience since graduation from law school:

In 1999, I served as a law clerk to the Honorable Howard P. King, Resident Judge of The Third Judicial Court. I was responsible for assisting in management of the court docket, drafting of proposed orders, and document review.

In 2000, I served as a law clerk to the Honorable M. Duane Shuler, Judge of the Court of Appeals. My responsibilities were to write draft opinions for the judge.

In early 2001, I was hired at the law firm of Robinson McFadden, P.C. I was responsible for a large collections practice inherited from a partner who left the firm. This practice included suits on account, actions for claim and delivery, foreclosure, and occasionally a mechanic‘s lien. I also assisted the respective partners on legal drafting and handling Rule 608 appointments. I was on the family court list at the time.

In August of 2002, I was appointed to the Sumter County Summary Court as a full time judge. I have served in this capacity to the present.

I have conducted numerous civil and criminal jury trials. I also regularly conduct non-jury civil and criminal court, preliminary hearings, and bond hearings. My service on the Summary Court has been very rewarding.

As previously mentioned, I have taught in the evenings as an instructor at Central Carolina Technical College and Troy University (Shaw AFB Campus).

Judge Griffin further reported:

“I have never appeared before the Administrative Law Court.”

Judge Griffin reported the frequency of his court appearances during the last five years as follows:

(a) Federal: 0%;

(b) State: 100%;

(c) Other: 0%.

Judge Griffin reported the percentage of his practice involving civil, criminal, and domestic matters during the past five years as follows:

(a) Civil: 99%;

(b) Criminal: 0%;

(c) Domestic: 1% (appointed cases only).

Judge Griffin reported the percentage of his practice in trial court during the last five years as follows:

(a) Jury: less than 1%;

(b) Non-jury: The overwhelming majority of my cases went to judgment, default judgment, or order of foreclosure and sale. Only a small percentage of cases were settled prior to trial via confessions of judgment or monetary settlement.

Judge Griffith provided that he most often served as sole counsel.

The following is Judge Griffin’s account of his most significant litigated matters:

“I cannot say with particularity five significant litigated matters that stood out as the overwhelming majority of my practice was in collections. Most matters were handled as default matters or through summary judgment. As required, foreclosure matters and supplementary proceedings were held before the master-in-equity and were mostly uncontested.”

The following is Judge Griffin’s account of civil appeals he has personally handled:

“I have never carried a case entirely through the appellate process. I had one case appealed to the South Carolina Court of Appeals but said appeal was pending at the time I was appointed to the bench.”

The following is Judge Griffin’s account of criminal appeals he has personally handled:

“I have never handled a criminal appeal while in private practice”

Judge Griffin reported that he has held the following judicial office:

“I have been a full-time magistrate in Sumter County for approximately the last seven years. I have tried all matters in which we have jurisdiction, including civil and criminal matters up to our jurisdictional limits. I have conducted countless preliminary hearings, bond hearings, and non-jury matters, whether civil or criminal. I have also certified machines seized by SLED as illegal gaming machines under Title 12 of the South Carolina Code, conducted civil interpleader actions regarding the recovery of earnest money, and numerous civil and criminal jury trials of all types.

Judge Griffin provided the following list of his most significant orders or opinions:

“As a Summary Court judge for the last seven years, I have drafted numerous orders, although to my knowledge I have never had a case appealed beyond circuit court. I have drafted orders regarding a large number of civil and criminal matters. Perhaps the most significant matters to me are orders regarding earnest money disputes when a respective party files an interpleader action. Some of these disputes include complicated legal issues regarding breach of contract or interpretation of contractual provisions. I have written orders determining the enforceability of certain contractual provisions and also had to determine whether a particular liquidated damages clause constituted a penalty under existing case law. I have also had to render orders on novel issues of law. I once ruled on a case involving ownership rights of funeral ashes which had belonged to one party but had been interred in another county. I have also issued orders regarding the admissibility of blood or other evidence in DUI cases and issued orders in criminal matters regarding a particular chain of custody. My service as a magistrate has exposed me to an extremely wide variety of cases.”

Judge Griffin reported the following regarding his employment while serving as a judge:

(a) 2003- Present- Adjunct Instructor, Central Carolina Technical College. Responsible for teaching classes required for prospective paralegals to obtain an associate’s degree. I also taught two classes in the Criminal Justice Program of the College. My supervisors are Nashiba Boyd, Esq. (paralegal program) and Christopher Hall. I have not taught a criminal law course in a number of years.

(b) In the calendar year 2008, I served as adjunct instructor in the Criminal Justice Department of Troy University (Shaw Air Force Base Campus). As previously stated, I taught two graduate level courses for students aspiring to obtain a master’s degree in Criminal Justice. My supervisor was Lisa Bennett.

(9) Judicial Temperament:

The Commission believes that Judge Griffin’s temperament would be excellent.

(10) Miscellaneous:

Judge Griffin is married to Elizabeth Shuler Griffin. He has one child.

Judge Griffin reported that he was a member of the following bar associations and professional associations:

“I have been a member of the Sumter County and South Carolina Bar Associations since 1999. I was a member of the Richland County Bar during my employment with Robinson McFadden, P.C.”

Judge Griffin provided that he was a member of the following civic, charitable, educational, social, or fraternal organizations:

(a) I have served on the Paralegal Advisory Board for Central Carolina Technical College for the past several years.

(b) I have been a member of the Presbyterian College Board of Visitors since 2007.

Judge Griffin further reported:

I believe that my previous experience as a law clerk, attorney and summary court judge have prepared me well to serve on the Administrative Law Court. Being a law clerk and judge has taught me the importance of proper legal drafting, importance of writing clearly, and how to write to a wide audience. Serving as an appellate law clerk has assisted me with the review of complex legal issues and lengthy document review, both of which are common in cases argued before the Administrative Law Court. Serving as a law clerk has also taught me the importance of developing a docketing system that is efficient. Serving as a magistrate has taught me how to efficiently deal with a high volume of cases. While serving as a summary court judge has also assisted me in obtaining a good working knowledge in a variety of areas of the law, it has most importantly trained me to develop the temperament that I feel is required for any level of the judiciary. As magistrates hear cases daily involving pro se litigants, any judge must learn to be fair but also respectful of both parties, regardless of how each may have presented their case. Serving as a summary court judge has taught me humility, compassion, and respect towards all parties and attorneys. I further feel that serving in this capacity for seven years without a formal complaint speaks to my abilities in being fair, honest, and without vanity or an ego. My experience as an attorney has also enabled me to manage and dispose of a volume of cases in which deadlines are often critical.

I candidly acknowledge my inexperience practicing in front of the Administrative Law Court. However, I do feel that I would adjust quickly to the type of cases that I would be hearing and would do so with the proper demeanor and temperament expected of the position. I am willing to immerse myself in administrative law to compensate for my lack of experience, and am willing to work as hard as required for the citizens of this state to have the requisite confidence in me.

**The Pee Dee Citizens Committee found Judge Griffin “Well-Qualified” for each of the nine evaluative criteria: constitutional qualifications, ethical fitness, professional and academic ability, character, reputation, physical health, mental stability, experience, and judicial temperament. They also noted with respect to judicial temperament that he is “personable and courteous.”**

(11) Commission Members’ Comments:

The Commission commented that Judge Griffin has a fine judicial temperament. The Commission further commented that Judge Griffin has impressive experience for his age, which would assist him on the Administrative Law Court.

(12) Conclusion:

The Commission found Judge Griffin qualified, but not nominated, for election to the Administrative Law Court.

**Christopher McGowan Holmes**

**Administrative Law Court, Seat 6**

**Commission’s Findings: QUALIFIED, BUT NOT NOMINATED**

(1) Constitutional Qualifications:

Based on the Commission’s investigation, Mr. Holmes meets the qualifications prescribed by law for judicial service as an Administrative Law Court judge.

Mr. Holmes was born in 1949. He is 60 years old and a resident of Mt. Pleasant, South Carolina. Mr. Holmes provided in his application that he has been a resident of South Carolina for at least the immediate past five years and has been a licensed attorney in South Carolina since 1978.

(2) Ethical Fitness:

The Commission’s investigation did not reveal any evidence of unethical conduct by Mr. Holmes.

Mr. Holmes demonstrated an understanding of the Canons of Judicial Conduct and other ethical considerations important to judges, particularly in the areas of ex parte communications, acceptance of gifts and ordinary hospitality, and recusal.

Mr. Holmes reported that he has not made any campaign expenditures.

Mr. Holmes testified he has not:

(a) sought or received the pledge of any legislator prior to screening;

(b) sought or been offered a conditional pledge of support by a legislator;

(c) asked third persons to contact members of the General Assembly prior to screening.

Mr. Holmes testified that he is aware of the Commission’s 48-hour rule regarding the formal and informal release of the Screening Report.

(3) Professional and Academic Ability:

The Commission found Mr. Holmes to be intelligent and knowledgeable. His performance on the Commission’s practice and procedure questions met expectations.

Mr. Holmes described his past continuing legal or judicial education during the past five years as follows:

Conference/CLE Name Date

(a) SCAARLA The Evolving World of Administrative Law 9/19/08;

(b) CCBA What Works 2/13/09;

(c) Surveying Marsh Islands 2/26/09;

(d) Lunch & Learn A&RL Committee 5/18/07;

(e) 2007 SCAARLA Conference 9/20/07;

(f) CCBA 4th Annual “What Works” 12/20/07;

(g) SCAARLA Seminar 9/22/06;

(h) S.C. Bar A&R Committee 11/3/06;

(i) CCBA “What works for me” 12/1/06;

(j) CCBA “What works for you” 12/15/06;

(k) Attorney ECF Training 9/7/05;

(l) SCAARLA Educational Seminar 9/23/05;

(m) Anatomy of a Trial 11/29/05;

(n) CCBA “What works for me” 12/9/05;

(o) CCBA “What works for you” 12/16/05;

(p) Revised Lawyer’s Oath CLE 7/22/04;

(q) SCAARLA Annual Meeting 10/1/04.

Mr. Holmes reported that he has taught the following law-related courses:

(a) I lectured on coastal zone management issues at a joint North Carolina/South Carolina seminar in the late 1980’s.

(b) I have given presentations to various professional groups and associations in the Charleston area on issues relating to regulations of wetlands and dock permitting.

Mr. Holmes reported that he has not published any books or articles.

(4) Character:

The Commission’s investigation of Mr. Holmes did not reveal evidence of any founded grievances or criminal allegations made against him. The Commission’s investigation of Mr. Holmes did not indicate any evidence of a troubled financial status. Mr. Holmes has handled his financial affairs responsibly.

The Commission also noted that Mr. Holmes was punctual and attentive in his dealings with the Commission, and the Commission’s investigation did not reveal any problems with his diligence and industry.

(5) Reputation:

Mr. Holmes reported that he is not rated by Martindale-Hubbell.

(6) Physical Health:

Mr. Holmes appears to be physically capable of performing the duties of the office he seeks.

(7) Mental Stability:

Mr. Holmes appears to be mentally capable of performing the duties of the office he seeks.

(8) Experience:

Mr. Holmes was admitted to the South Carolina Bar in 1978.

He gave the following account of his legal experience since graduation from law school:

(a) 1978-79: Partner with Gene W. Dukes, St. George, S.C. General practice including civil, criminal, domestic, administrative and estate planning.

(b) 1979-85: Hired in September 1979 as staff attorney for newly created South Carolina Coastal Council; promoted to General Council in 1983 and Deputy Director in 1984. Advised agency staff and Board members on legal and regulatory matters, drafted regulations, reviewed contracts, represented agency at administrative hearings and in circuit and appellate courts. As Deputy Director, headed up agency’s Charleston office supervising a staff of approximately 25 professional and clerical employees.

(c) 1985-94: Associate with McNair Law Firm in Columbia and Charleston; member of administrative and regulatory section, representing clients in variety of environmental and regulatory matters.

(d) 1994-present Private law practice in Charleston and Mt. Pleasant. Primary focus on representing clients before administrative agencies and Administrative Law Court and appellate courts on issues involving environmental permits.

Mr. Holmes further reported:

“Since establishment of the Administrative Law Court, approximately 90% of my practice has been before that tribunal. I have appeared before most of the current and former ALJ’s. Virtually all matters I have handled have involved DHEC’s coastal zone, water quality, air quality or stormwater permits. Approximately half of the time my client’s position has been allied with the agency and the other half in opposition. Over the last ten years, I have averaged approximately four to five contested case hearings before the ALC annually.”

Mr. Holmes reported the frequency of his court appearances during the last five years as follows:

(a) Federal: 0;

(b) State: 3-4.

Mr. Holmes reported the percentage of his practice involving civil, criminal, and domestic matters during the last five years as follows:

(a) Civil: 98%;

(b) Criminal: 0%;

(c) Domestic: 2%.

Mr. Holmes reported the percentage of his practice in trial court during the last five years as follows:

(a) Jury: 0%;

(b) Non-jury: 100%.

Mr. Holmes provided that he most often served as sole counsel.

The following is Mr. Holmes’s account of his five most significant litigated matters:

(a) Guerard v. Whitner, 276 SC 521, 280 SE2d 539 (SC 1981) – First case interpreting the S.C. Coastal Zone Management Act standard of review. The Court held that, notwithstanding statutory statement that review was *de novo*, the substantial evidence test is to be applied in judicial review.

(b) Carter v. S.C. Coastal Council, 281 SC 201, 314 SE2d 327 (SC 1984) – First case challenging agency regulation of privately owned wetlands as unconstitutional “taking.” The Court held that agency’s action was a legitimate exercise of police powers to prevent public harm and not a regulatory “taking.”

(c) Brown v. SCDHEC, 348 SC 527, 560 SE2d 410 (SC 2002) – First case setting forth the proper standard of review by an agency Board on appeal from the Administrative Law Court. The Court held that the ALJ was the finder of facts and the DHEC Board, as a reviewing tribunal, lacked authority to make its own factual findings. The case effectively led to adoption of legislation (2006 Act No. 387) eliminating agency board and circuit court review of ALJ decisions which now go directly to Court of Appeals.

(d) Setzer and Gilgen v. SC DHEC, Case No. 03-CP-15-980, June 2004. Following denial of permit and affirmation of decision by ALJ, plaintiffs appealed to circuit court (Hon Jackson V. Gregory) successfully arguing decision was improperly based on agency policies never promulgated and adopted as regulations as required by APA.

(e) Concerned Citizens of Jamestown v. Southern Aggregates. Actually four different circuit court cases alleging trespass and nuisance against a limestone quarry and administrative appeals of mining permits before the Mining Council. The various proceedings went on for nearly four years and was resolved by negotiated payment of substantial damages and an agreement to significantly modify future mining methods to minimize impacts on surrounding lands.

The following is Mr. Holmes’s account of his five most significant civil appeals he has personally handled:

(a) Brownlee v. SCHEC, S.C. Court of Appeals, January 29, 2007,372 SC 119, 641 SE2d;

(b) Brown v. SCDHEC; S.C. Supreme Court, February 25, 2002; 348 SC 527, 560 SE2d 410;

(c) Concerned Citizens, etc. v. S.C. Coastal Council, et al.; S.C. Supreme Court, November 9, 1992; 310 SC 267, 423 SE2d 134;

(d) State ex rel Medlock v. S.C. Coastal Council, et al.; S.C. Supreme Court, July 28, 1986; 289 SC 445, 346 SE2d 716;

(e) Carter v. S.C. Coastal Council; S.C. Supreme Court, March 26, 1984; 281 SC 201, 314 SE2d 327.

Mr. Holmes reported that he has not personally handled any criminal appeals.

Mr. Holmes further reported the following regarding unsuccessful candidacies:

“In February of 2006, I filed as a candidate for Administrative Law Court Seat 5. In September of 2008 I filed as a candidate for Administrative Law Court Seat 4. In February of 2009 I filed as a candidate for Administrative Law Court Seat 5. All times I was found qualified but not nominated.”

(9) Judicial Temperament:

The Commission believes that Mr. Holmes’s temperament would be excellent.

(10) Miscellaneous:

Mr. Holmes is married to Patricia Ann Martin Holmes. He has three children.

Mr. Holmes reported that he was a member of the following bar associations and professional associations:

(a) South Carolina Bar;

(b) S.C. Bar Administrative & Regulatory Law Committee;

(c) Charleston County Bar;

(d) S.C. Administrative and Regulatory Law Association.

Mr. Holmes provided that he was a member of the following civic, charitable, educational, social, or fraternal organization:

St. Andrews Episcopal Church, Mount Pleasant.

Mr. Holmes further reported:

I have practiced in a small town (St. George) and large cities (Charleston and Columbia). I have represented a state agency, and I have represented members of the regulated public. I have worked in a government setting, a large law firm setting, and as a sole practitioner. For the last twenty nine years, the majority of my practice has been in the administrative law setting. My experiences in these various roles have provided me with a broad perspective of the legal environment likely to be encountered by an Administrative Law Judge, both in terms of issues and personalities.

I know how the agency attorneys are often stretched to their maximum in the variety and quantity of matters they have pending at any particular time, from contested case hearings, administrative and judicial appeals and providing general counsel to agency staff and commissions or boards.

I am familiar with the intense environment under which attorneys in large firms operate and the difficulties encountered by small firm and solo practitioners with more limited resources to draw upon.

I have represented large, well financed clients as well as individual citizens with limited means, and I have represented the agency viewpoint. I believe this prepares me to be open minded with the various positions that will be presented in a given case.

In addition to appearing before most of the past and present Administrative Law Judges, I have appeared before a number of state and federal court judges since joining the Bar in 1978. I would strive to emulate those characteristics of the judges who made me feel welcome in their courtroom and who were attentive of the position I was advocating. Those characteristics are courtesy, respect, a knowledge of the applicable law and a familiarity with the pleadings and issues. I understand today, more than ever, how difficult and demanding the practice of law is, and I would endeavor to make the parties - and especially their counselors - leave feeling whatever the outcome, they had a full, complete and fair hearing.

**The Low Country Citizens Advisory Committee found Mr. Holmes to be “Well-Qualified” for each of the nine evaluative criteria: constitutional qualifications, ethical fitness, professional and academic ability, character, reputation, physical health, mental stability, experience, and judicial temperament.**

(11) Commission Members’ Comments:

The Commission found that Mr. Holmes has a great understanding of the law and the Administrative Law Court. They also noted his apparent good temperament and people skills, which would serve him well as a jurist on the Administrative Law Court.

(12) Conclusion

The Commission found Mr. Holmes qualified, but not nominated, for election to the Administrative Law Court.

**Sebastian Phillip Lenski**

**Administrative Law Court, Seat 6**

**Commission’s Findings: QUALIFIED AND NOMINATED**

(1) Constitutional Qualifications:

Based on the Commission’s investigation, Mr. Lenski meets the qualifications prescribed by law for judicial service as an Administrative Law Court judge.

Mr. Lenski was born in 1963. He is 45 years old and a resident of Columbia, South Carolina. Mr. Lenski provided in his application that he has been a resident of South Carolina for at least the immediate past five years and has been a licensed attorney in South Carolina since 1995. He was also admitted to the Colorado Bar in 1989.

(2) Ethical Fitness:

The Commission’s investigation did not reveal any evidence of unethical conduct by Mr. Lenski.

Mr. Lenski demonstrated an understanding of the Canons of Judicial Conduct and other ethical considerations important to judges, particularly in the areas of ex parte communications, acceptance of gifts and ordinary hospitality, and recusal.

Mr. Lenski reported that he has made $278 in campaign expenditures for printing of personal information cards, stamps, and stationary.

Mr. Lenski testified he has not:

(a) sought or received the pledge of any legislator prior to screening;

(b) sought or been offered a conditional pledge of support by a legislator;

(c) asked third persons to contact members of the General Assembly prior to screening.

Mr. Lenski testified that he is aware of the Commission’s 48-hour rule regarding the formal and informal release of the Screening Report.

(3) Professional and Academic Ability:

The Commission found Mr. Lenski to be intelligent and knowledgeable. His performance on the Commission’s practice and procedure questions met expectations.

Mr. Lenski described his past continuing legal or judicial education during the past five years as follows:

Conference/CLE Name Date

(a) 12th Legal Support Organization Law of Land Warfare 4/17/04;

(b) S.C. Bar S.C. Admin. and Regulatory Law Assoc. Meeting 10/1/04;

(c) S.C. Senate Judiciary Court Legislative Drafting Seminar 11/2/04;

(d) US Army JAG Corps JAG Reserve Component On-Site 1/7/05;

(e) S.C. Bar Children Issues in Family Court 3/18/05;

(f) US Army JAG Corps Winning the Long War Law of Land Warfare 5/6/06;

(g) Lorman BCI Basic Workers’ Compensation 9/27/06;

(h) S.C. Assn. of Counties Local Government Attorneys CLE 12/8/06;

(i) SCJILB Changes in Immigration Law 4/6/07;

(j) 12th Legal Support Organization JAG Reserve Component CLE 11/16/07;

(k) S.C. Association of Counties 2007 S.C. Local Government 12/07/07;

(l) S.C. Solicitor’s Association S.C. Solicitor’s Assoc. Fall Conference 9/28/08;

(m) S.C. Admin. and Regulatory Law Assoc.

The Evolving World of Admin. Law 9/19/08;

(n) S.C. Association of Counties

SCAC Local Government Attorney’s Conference 12/12/08;

(o) 213th Legal Support Organization Army Reserve CLE 2/7/09;

(p) 12th Legal Support Organization Army Reserve CLE 4/20-21/09.

Mr. Lenski reported that he has taught the following law-related courses:

I have been teaching pre-law courses to undergraduate students at the Shaw Air Force Base extension campus of St. Leo University since 2000. I have taught the following courses: Criminal Law, Criminal Procedure, Constitutional Law, Business Law, Law Enforcement, and Employment Law. I generally teach three classes per year at St. Leo University.

In March of 2005, I lectured on current legislation pending in the S.C. General Assembly relating to Family Court at a CLE sponsored event by the S.C. Bar.

In April of 2007 I lectured at a continuing legal education seminar sponsored by the South Carolina Journal of International Law and Business on the South Carolina Immigration Reform Act.

In 2008 I gave four lectures at the University of South Carolina to undergraduate business and political science majors on the recently enacted South Carolina Immigration Reform Act of 2008. I lectured to two separate classes of business students and two separate classes of political science students.

In October of 2008 I lectured about the legislative process and the role of attorneys to a law school class at the University of South Carolina School of Law.

In October of 2008, I also gave a lecture at the South Carolina Solicitor’s Conference about the newly enacted South Carolina Illegal Immigration Reform Act.

For nearly twenty years, while serving as a Judge Advocate for the United States Army, both while on active duty and in my current capacity as a Reserve officer, I have provided dozens of briefings and lectures on subjects such as military criminal law, military justice, military administrative law, personnel law, claims processing, and federal legal benefits and protections for Reserve and National Guard soldiers who are called to active duty and deployed in support of military operations in the United States or overseas.

Mr. Lenski reported that he has not published any books or articles.

(4) Character:

The Commission’s investigation of Mr. Lenski did not reveal evidence of any founded grievances or criminal allegations made against him. The Commission’s investigation of Mr. Lenski did not indicate any evidence of a troubled financial status. Mr. Lenski has handled his financial affairs responsibly.

The Commission also noted that Mr. Lenski was punctual and attentive in his dealings with the Commission, and the Commission’s investigation did not reveal any problems with his diligence and industry.

(5) Reputation:

Mr. Lenski reported that he is not rated by Martindale-Hubbell.

Mr. Lenski reported the following military service:

“I continue to serve in the U.S. Army Reserves. I was first commissioned a Second Lieutenant (2LT) in the United States Army on May 16, 1986. I went on active duty after graduating from law school from January 3, 1990, until August 30, 1995. I have been in the Army Reserves since that time, and am currently a Lieutenant Colonel (LTC), serving with the 12th Legal Support Organization, headquartered at Fort Jackson, South Carolina.”

(6) Physical Health:

Mr. Lenski appears to be physically capable of performing the duties of the office he seeks.

(7) Mental Stability:

Mr. Lenski appears to be mentally capable of performing the duties of the office he seeks.

(8) Experience:

Mr. Lenski was admitted to the South Carolina Bar in 1995.

He gave the following account of his legal experience since graduation from law school:

(a) United States Army, Judge Advocate General’s Corps, Active Duty, January 1990 - August 1995. I served in numerous capacities during nearly six years on active duty as a JAG officer in the U.S. Army. I served as a Defense Counsel and Administrative Law Attorney from 1990-93 while stationed at Fort Richardson, Alaska. I represented soldiers at all levels of courts-martial in forty-five cases for offenses including rape, child sexual abuse, drug distribution, drunk driving, aggravated assault, and economic crimes. As an administrative law attorney, I directly supervised one attorney and one support staff member, and I provided legal representation to commanders in the areas of real property law, administration of Army Regulations, environmental law, and legal issues involving the day-to-day operation of the installation. I provided instruction to soldiers in the area of the code of conduct and the law of war. I served as Chief, Criminal Law Division while stationed at Fort Jackson, South Carolina from 1993 - 1995. While there, I directly supervised and managed the caseloads of three attorneys and three support staff members. I served as lead prosecutor in five jury trials, and provided guidance to junior counsel in twelve other trials. I tried cases with charges including involuntary manslaughter, felony drunk driving and rape. I provided legal instruction to soldiers in the area of criminal law and the law of war.

(b) United States Army, Judge Advocate General’s Corps, Reserve Duty, January 1996 to present. I have served as a Judge Advocate for the United States Army Reserves since January of 1996. In that part-time capacity, I have held numerous positions and served in many capacities. I conducted numerous administrative separation boards for Reserve soldiers who committed various acts of misconduct including illegal drug use and being convicted of crimes in civilian courts. I have provided legal assistance to over one thousand soldiers and family members in the area of estate planning, debtor/creditor law, family law, and administrative law. I have served as a training officer, a mobilization officer, and am currently a Deputy Commander of my Reserve Unit. In February of 2003 I was activated and mobilized to Kuwait, and then Iraq, where I served as the chief prosecutor for the Coalition Forces Land Component Command, which was the Joint Command that invaded and occupied Iraq. As the chief prosecutor, I tried fifteen general courts-martial and advised on over two dozen other courts-martial pending in the theater of operations. I tried the first five courts-martial in a combat zone since Vietnam. I also was the lead prosecutor on the first prisoner abuse cases reported during the Iraq war, which occurred at Camp Bucca, Iraq (Southern Iraq outside the city of Um Quasr) in May of 2003.

(c) Associate General Counsel, South Carolina Department of Insurance, December 1995-February 1997. Senior Staff Attorney at the Department and worked directly for the General Counsel. I managed a junior counsel and an administrative specialist. I was responsible for all legal aspects of the regulation of the insurance industry in South Carolina. I drafted legislation, litigated rate hearings and administrative disciplinary actions, and provided legal opinions to department administrators.

(d) Adjunct Professor, Saint Leo University, Shaw Air Force Base Campus, Sumter, South Carolina, January 2002-Present. I teach undergraduate level law courses to students of the University in an adjunct capacity. Courses include criminal law, criminal procedure, and introduction to law and the legal process.

(e) Associate General Counsel, South Carolina Department of Labor, Licensing and Regulation, February 1997 - October 2002. I provided all litigation support to eleven state regulatory boards, including the South Carolina Real Estate Commission, the Contractor’s Licensing Board, the Board of Architectural Examiners, and the Board of Engineers and Land Surveyors. I was responsible for all litigation for my boards, including prosecuting disciplinary hearings and handling all appeals at all levels of State and Federal Courts. Provided assistance in drafting and reviewing proposed legislation for the boards.

(f) Counsel to the Clerk, South Carolina Senate. October 2002 - September 2004. I provided legal support to the Clerk of the South Carolina Senate, Senators, and to the Senate Committees. My duties included providing general legal research for Senators and Committees, researching and drafting legislation and amendments, and providing litigation services in all cases where the Senate was a party.

(g) Staff Attorney, South Carolina Senate Judiciary Committee. September 2004 - Present. I provide legal support to the largest committee of the South Carolina Senate. My duties included researching and drafting legislation, amendments, and legal memoranda for the President *Pro Tempore* of the South Carolina Senate and the members of the Committee. My additional duties include tracking and managing legislation through the legislative process.

Mr. Lenski further reported:

The majority of my legal experience has been before the Administrative Law Court. When I first began practicing in South Carolina in 1995 after leaving active duty in the Army, I was a staff attorney at the South Carolina Department of Insurance. In that capacity I conducted disciplinary hearings and insurance rate hearings before the Administrative Law Court. At that time I appeared at the Administrative Law Court on a monthly basis for either an insurance agent/broker disciplinary hearing, or for an insurance rate hearing.

From 1997 through 2002 I was a staff counsel for the South Carolina Department of Labor, Licensing and Regulation. During those years I represented more than twelve licensing boards, including the Real Estate Commission, the Contractor’s Licensing Board, the Board of Architectural Examiners, the Board of Engineering, the Board of Nursing, and the Board of Accountancy. I handled all of the disciplinary actions for those boards, as well as appeals of the boards’ actions, which were held before the Administrative Law Court. During those six years, I appeared before the Administrative Law Court for appeals of disciplinary actions on an average of twice a month.”

Mr. Lenski reported the frequency of his court appearances during the past five years as follows:

(a) federal: see below

(b) state: see below

Since October 2002, I have been employed as an attorney for the South Carolina Senate. In my capacity as Counsel to the Clerk, I was one of the counsel involved in the case of *Sloan v. Wilkins*, 362 S.C. 430, 608 S.E.2d 579 (2005), which case was heard by the South Carolina Supreme Court in 2004 and decided in 2005. However, aside from that case, my practice has not involved making court appearances since 2003.

From 1996 through 2002, when I served as staff counsel for the Department of Insurance and then the Department of Labor Licensing and Regulation, I appeared exclusively before state courts on a weekly basis.

My answers to the remaining questions regarding my court appearances and caseload apply to the period of time when I was conducting litigation as a staff counsel for the Department of Insurance and the Department of Labor, Licensing and Regulation from 1996–2002.

Mr. Lenski reported the percentage of his practice involving civil, criminal, and domestic matters from 1996-2002 as follows:

(a) civil: (administrative) 95%;

(b) criminal:

(c) domestic: Less than 5% (court appointments in DSS matters);

Since 1995, my only criminal experience has been when I served as a prosecutor in the Army in Iraq and Kuwait in 2003, where I prosecuted fifteen courts-martial (federal court) over a seven month period.

Mr. Lenski reported the percentage of his practice in trial court from 1996-2002 as follows:

(a) jury:

(b) non-jury: 100%.

Mr. Lenski provided that he most often served as sole counsel.

The following is Mr. Lenski’s account of his five most significant litigated matters:

(a) Sloan v. Wilkins, 362 S.C. 430, 608 S.E.2d 579 (2005). This case, held in the original jurisdiction of the Supreme Court of South Carolina, addressed the “one subject” requirement in the South Carolina Constitution mandating that all legislation enacted by the General Assembly must be about one subject. The General Assembly was sued by an individual who claimed that a large piece of legislation enacted in 2004 violated the one subject requirement, and I was one of the attorneys who represented the General Assembly in the ensuing litigation. The Supreme Court’s order in that case represented the latest interpretation of that constitutional provision.

(b) U.S. v. Gorman, U.S. v. Canjar, and U.S. v. Edmunds(May – August 2003). These cases were unreported general courts-martial (criminal proceedings) filed in southern Iraq against 3 soldiers from the 800th Military Police Brigade in June of 2003. These were the first prisoner abuse cases filed against U.S. military personnel (pre Abu-Ghraib). I was the chief prosecutor who led the investigation, filed the charges, and conducted the pre-trial hearings pursuant to Article 32 of the Uniform Code of Military Justice (tantamount to grand jury proceedings). These cases were the most difficult I have ever handled. Logistically, I had to conduct a detailed criminal investigation at a prisoner of war camp located in a combat zone. I had to arrange counsel for the soldiers and schedule their travel from Germany, into Kuwait, and then across the border into Iraq. I had to locate and arrange the transportation of witnesses from across the area of combat operations, and I had to conduct a detailed pre-trial hearing, complete with international media scrutiny, in a tent city constructed at the prisoner of war camp. The cases were ultimately pleaded out, and the soldiers were all discharged.

(c) SCDLLR (Real Estate Commission) v. James E. MacDonald, (97 ALJ 11 0374 IJ, 97 ALJ 11 0598 AP, 99 ALJ 11-0527 AP). This case, or rather, series of cases involving a South Carolina Real Estate broker, was ultimately a very important decision in professional licensing law in that it demonstrated that professional licensing boards could ultimately force disciplined licensees to stop engaging in the unlicensed practice of their profession. In this case, the Respondent continued to practice real estate despite his license being revoked and no stay being granted. Ultimately, after being ordered by the Administrative Law Court to cease and desist, I brought the Respondent back before the Administrative Law Court and proved that he had violated the court’s order. For the first time in the history of the Administrative Law Court, the Respondent was held in contempt and sent to jail. This case has been used in numerous continuing legal education seminars discussing the power of the Administrative Law Court.

(d) SCDLLR (Board of Veterinary Medicine) v. Stan Gorlitsky, D.V.M.*,* (01-ALJ-11-0403-AP). This was a case before the Board of Veterinary Medicine. The case was significant because it received a huge amount of publicity in both Columbia and Charleston, where the veterinarian was practicing, which made the investigation and prosecution of the complaint very difficult. The case involved numerous allegations of maltreatment of animals by the Respondent. The Board suspended the license of the Respondent, and I was able to successfully get the appeal dismissed for untimely filing.

(e) W.F. Hewitt and Associates v. SCDLLR (Contractor’s Licensing Board), (91-ALJ-11-0486-AP). This case was significant because in this case the Contractor’s Licensing Board determined that, in addition to other misconduct committed by a licensed contractor, the failure of a general contractor to pay his sub-contractors, even when he was not paid by the homeowner himself, constituted misconduct. On appeal, the Administrative Law Court upheld the decision of the Board on this issue.

The following is Mr. Lenski’s account of five civil appeals he has personally handled:

(a) James E. MacDonald v. SCDLLR (Real Estate Commission)*,* (before the Administrative Law Court on appeal from the Real Estate Commission) (multiple appeals):

97 ALJ 11 0598 AP, dates of decisions – 3/25/98 and 8/20/98

99 ALJ 11-0527 AP, date of decision – 10/27/99.

(b) Stephen P. Herlong v. SCDLLR*,* (before the Administrative Law Court on appeal from the Board of Architectural Examiners), 00-ALJ-11-0001-AP, date of decision – 1/9/2001.

(c) James F. Johnston, III v. SCDLLR, (before the Administrative Law Court on appeal from the Real Estate Appraiser’s Board), 01-ALJ-0015-AP, date of decision – 8/8/2001 (my client was ultimately successful before the South Carolina Supreme Court [365 S.C. 293, 617 S.E.2d 363 (2005)], and while I worked on this appeal through the Circuit Court, I left the agency before the final decision was rendered by the Supreme Court.

(d) Mary C. Hofer v. SCDLLR, (before the Administrative Law Court on appeal from the Real Estate Commission), 01-ALJ-11-0127-AP, date of decision – 3/20/2002.

(e) Thomas P. Smarsh, RN v. SCDLLR (before the Administrative Law Court on appeal from the Nursing Board), 01-ALJ-11-0255-AP, date of decision – 12/7/2001.

The following is Mr. Lenski’s account of the criminal appeals he has personally handled:

“I have not handled criminal appeals except as a law clerk.”

Mr. Lenski further reported the following regarding unsuccessful candidacies:

“I was a candidate for the Administrative Law Court, Seat Number 5, in the Spring of 2009.”

(9) Judicial Temperament:

The Commission believes that Mr. Lenski’s temperament would be excellent.

(10) Miscellaneous:

Mr. Lenski is married to Laura Brant Lenski. He has three children.

Mr. Lenski reported that he was a member of the following bar associations and professional associations:

(a) South Carolina Bar (member since 1995);

(b) Richland County Bar Association (member since 1995);

(c) Colorado Bar (member since 1989);

(d) Colorado Bar Association (member since 1989).

Mr. Lenski provided that he was a member of the following civic, charitable, educational, social, or fraternal organizations:

“I am an adjunct professor at St. Leo University’s Shaw Air Force Base campus where I teach pre law classes in the evening.”

Mr. Lenski further reported:

Since I began my legal career upon entering law school, I have attempted to take advantage of every opportunity to develop my legal skills as broadly as possible. I have always believed that wisdom and understanding are learned through a life full of many and varied experiences. In law school, I tried to gain experience in as many areas of the law as possible. I worked for a criminal defense lawyer in Charleston, South Carolina, after my first year of law school, and then for an insurance defense firm in Denver, Colorado the following summer. During school, I worked for a professor researching corporate law issues, and I was a member of, and ultimately an officer of the Emory Law School Moot Court team.

After graduation, I served my country on active duty for nearly six years as a Judge Advocate for the U.S. Army. I practiced criminal law, administrative law, environmental law, labor law, and I assisted soldiers with trust and estate matters, consumer credit problems, and landlord tenant issues. When I decided to leave active duty and practice law in South Carolina, I began practicing administrative law with the Department of Insurance. I learned a tremendous amount about administrative law and the Administrative Law Court, and it was during those eighteen months that I developed an interest in the Administrative Law Court. At my next position with the Department of Labor, Licensing and Regulation (LLR), I regularly appeared before the Administrative Law Court, and as my knowledge of and experience before the court grew, so did my interest in it.

In late 2002, I left LLR to take a position with the South Carolina Senate. While my new position, as well as my service in Iraq and Kuwait in 2003, took me away from practicing directly before the Administrative Law Court, I have still been actively involved with the court in that I have drafted numerous statutes to amend various parts of the Administrative Procedures Act. I have maintained both my interest in and knowledge of the court by participating in administrative law continuing legal education seminars. My position on the Senate Judiciary Committee has given me a very broad view of the entire judicial system in South Carolina, including the Administrative Law Court. Therefore, while it has been some years since I tried cases in the Administrative Law Court, I believe that my years in the Senate have given me a richer understanding of the court and the various individuals, groups, and agencies who appear before the judges.

I believe that all of my experiences, coupled with my longstanding and strong interest in administrative law the Administrative Law Court, will enable me to be a professional, competent, and understanding jurist. I appreciate the time the Commission has spent considering my application, and I look forward to answering any questions any member of the Commission may have about me or my desire to serve our state as the next Administrative Law Court judge.

**The Midlands Citizens Committee found Mr. Lenski “Well-Qualified” for each of the nine evaluative criteria: constitutional qualifications, ethical fitness, professional and academic ability, character, reputation, physical health, mental stability, experience, and judicial temperament. They also reported the following regarding Mr. Lenski: “The committee was very impressed by Mr. Lenski. We believe he is an outstanding candidate in every respect. Mr. Lenski is most eminently qualified to serve as an Administrative Law Court Judge.”**

(11) Commission Members’ Comments:

The Commission commented on Mr. Lenski’s excellent grasp of legal issues and noted that his experience would serve him well on the Administrative Law Court. They also noted that his patience would greatly assist him as a jurist.

(12) Conclusion:

The Commission found Mr. Lenski qualified and nominated him for election to the Administrative Law Court.

**Walter Rutledge Martin**

**Administrative Law Court, Seat 6**

**Commission’s Findings: QUALIFIED, BUT NOT NOMINATED**

(1) Constitutional Qualifications:

Based on the Commission’s investigation, Judge Martin meets the qualifications prescribed by law for judicial service as an Administrative Law Court judge.

Judge Martin was born in 1963. He is 46-years old and a resident of Greenwood, South Carolina. Judge Martin provided in his application that he has been a resident of South Carolina for at least the immediate past five years and has been a licensed attorney in South Carolina since 1994. He was also admitted to the California Bar in 1993.

(2) Ethical Fitness:

The Commission’s investigation did not reveal any evidence of unethical conduct by Judge Martin.

Judge Martin demonstrated an understanding of the Canons of Judicial Conduct and other ethical considerations important to judges, particularly in the areas of ex parte communications, acceptance of gifts and ordinary hospitality, and recusal.

Judge Martin reported that he has not made any campaign expenditures.

Judge Martin testified he has not:

(a) sought or received the pledge of any legislator prior to screening;

(b) sought or been offered a conditional pledge of support by a legislator;

(c) asked third persons to contact members of the General Assembly prior to screening.

Judge Martin testified that he is aware of the Commission’s 48-hour rule regarding the formal and informal release of the Screening Report.

(3) Professional and Academic Ability:

The Commission found Judge Martin to be intelligent and knowledgeable. His performance on the Commission’s practice and procedure questions met expectations.

Judge Martin described his past continuing legal or judicial education during the past five years as follows:

Conference/CLE Name Date

(a) SCSCJA Judges’ Annual Conference 09/4/08;

(b) Magistrates’ Intensive Training 08/21/08;

(c) Mandatory School for Magistrates 11/02/07;

(d) Magistrates’ Orientation School 07/23/07;

(e) Annual S.C. Solicitors’ Association Conference 9/24/06;

(f) Annual S.C. Solicitors’ Association Conference 09/25/05;

(g) S.C. Drug Court Training Conference 02/25/05;

(h) 20th Annual Criminal Law Update 01/21/05;

(i) Revised Lawyer’s Oath CLE 08/20/04;

(j) Real Estate Mortgage Fraud in S.C. 03/11/04;

(k) 19th Annual Criminal Law Update 01/23/04;

(l) Happiness: Living with Ethics, Productivity and Stress Management 12/13/03;

(m) 18th Annual Criminal Law Update 01/24/03.

Judge Martin reported that he has taught the following law related course:

“I presented a Continuing Legal Education seminar on DUI prosecution.”

Judge Martin reported that he has not published any books or articles.

(4) Character:

The Commission’s investigation of Judge Martin did not reveal evidence of any founded grievances or criminal allegations made against him. The Commission’s investigation of Judge Martin did not indicate any evidence of a troubled financial status. Judge Martin has handled his financial affairs responsibly.

The Commission also noted that Judge Martin was punctual and attentive in his dealings with the Commission, and the Commission’s investigation did not reveal any problems with his diligence and industry.

(5) Reputation:

Judge Martin reported that he is not rated by Martindale-Hubbell.

(6) Physical Health:

Judge Martin appears to be physically capable of performing the duties of the office he seeks.

(7) Mental Stability:

Judge Martin appears to be mentally capable of performing the duties of the office he seeks.

(8) Experience:

Judge Martin was admitted to the South Carolina Bar in 1994.

He gave the following account of his legal experience since graduation from law school:

(a) 1990, Nelson, Mullins, Research and writing in Products Liability;

(b) 1990, Oakland, California Public Defender’s Office, Legal Research Assistant;

(c) 1994-1995, York County, S.C. Public Defender’s Office, Assistant Public Defender;

(d) 1995-1998 Greenwood/Abbeville Public Defender’s Office, Deputy Public Defender;

(e) 1998-2001 Eighth Judicial Circuit Solicitor’s Office, Assistant Solicitor;

(f) 2001-2005 S.C. Attorney General’s Office, Assistant Attorney General Criminal Appeals Division;

(g) 2005-2007 Eight Circuit Solicitor’s Office, Assistant Solicitor;

(h) 2007- Present, Greenwood County, Magistrate, Magistrate.

Judge Martin further reported:

While I was an Assistant Attorney General, I represented SLED in the Administrative Law Court for about two years. I appeared on behalf of SLED in approximately ten to twenty contested cases before the court during that two year period. In these cases, the various plaintiffs contended that SLED wrongfully denied them concealed weapons permits, permits to be private investigators, or permits to be security guards.

Some of the cases turned on factual issues and some on legal issues. In a case that turned on a factual issue, SLED sought to revoke the permit of a private investigator who allegedly perjured himself in Family Court. We called six or seven witnesses and were able to establish by a preponderance of the evidence that he did so.

In the cases that turned on legal issues, the question was usually whether SLED was using proper criteria to make its decision on whether it was properly publicizing the criteria. For example, SLED had a policy of denying concealed weapons permits to persons who had a certain number of traffic violations over a certain period of time. Some judges would question the reasonableness of this standard; others had a problem with the fact that it was not stated in the regulations.

Another issue that arose was the SLED policy of denying concealed weapons permits to anyone who had been convicted of a crime carrying a possible sentence of more than one year. SLED maintained this policy because federal law prohibits anyone with such a record from possessing a firearm which has moved in interstate commerce. A plaintiff with such a record challenged this standard on the ground that it would be legal for him to possess a handgun that had not traveled in interstate commerce.

Judge Martin reported the frequency of his court appearances prior to his service on the bench as follows:

(a) Federal: None;

(b) State: While I was an Assistant Solicitor I appeared in general sessions court daily while court was in session. As a Magistrate Judge I typically appear daily Monday thru Thursday and sometimes on Fridays.

Judge Martin reported the percentage of his practice involving civil, criminal, and domestic matters prior to his service on the bench as follows:

(a) Civil: 20%;

(b) Criminal: 80%;

(c) Domestic: 0%.

Judge Martin reported the percentage of his practice in trial court prior to his service on the bench as follows:

(a) Jury: 10%;

(b) Non-jury: 90%.

Judge Martin provided that prior to his service on the bench he most often served as sole counsel.

The following is Judge Martin’s account of his five most significant litigated matters:

(a) State v. Lawrence Moore, 343 S. C. 282, 540 S. E. 2d 445 (2000)

I was Mr. Moore’s Public Defender.

This Case gives an example of an identification procedure that offended due process and lacked sufficient indicia of reliability for the identification to be admissible.

In this burglary case, a witness saw two individuals fleeing the scene. She could only describe them as black males wearing blue jeans and t-shirts. Later that day, law enforcement stopped two individuals fitting that very general description. Officers brought the witness to the location of the stop to view the two, a show-up identification procedure. The witness identified the two as the same two she saw fleeing the scene of the burglary.

I moved to suppress the identification. The trial judge denied my motion and the jury convicted my client.

The South Carolina Supreme Court reversed the conviction on the ground that the identification was unreliable as a matter of law.

(b) In the Interest of Christopher P., 328 S. C. 545, 492 S. E. 2d 820 (S. C. App. 1997)

I was Christopher’s public defender.

This case established that charring is an element of arson.

In this case, Christopher threw a cigarette into the base of an artificial plant in the hallway of a building at Erskine College. Christopher said he thought it was an ashtray. At any rate, the plastic artificial plant caught on fire and did significant smoke damage to the hallway.

I argued that Christopher was not guilty of arson because he did not intend to start a fire and because no charring of the building resulted from the fire. The Family Court Judge rejected my arguments and found that Christopher had committed arson. The Court of Appeals reversed, holding that charring is an essential element of arson and finding that there was no evidence of charring in this case.

(c) State v. Shannon Sutherland

I prosecuted this arson case while an assistant solicitor. The jury found Sutherland guilty. The conviction withstood appeal and PCR proceedings.

I found this result very satisfying because I am firmly convinced that Mr. Sutherland is guilty and because the evidence, though voluminous, was largely circumstantial, making the case challenging to present and prove.

(d) State v. Marion Parris, 363 S. C. 477, 611 S. E. 2d 501 (2005)

I represented the state in the South Carolina Court of Appeals and the South Carolina Supreme Court.

This case reaffirmed that the existence of a fiduciary relationship between the perpetrator and the victim is an element of breach of trust.

A jury found Parris guilty of breach of trust. Parris had sold the victim a mobile home. The mobile home had a lien on it, about which Parris did not inform the victim. In various ways Parris led the victim to believe that the victim was receiving the mobile home with good title.

Instead of paying off the lien, Parris used the money for his own purposes. The Court of Appeals reversed the conviction. It held that the existence of a trust relationship is an element of breach of trust and that the state provided insufficient evidence of such. I filed a cert petition with the Supreme Court. The Supreme Court reversed the Court of Appeals. The Supreme Court held that the Court of Appeals employed the correct legal standard, but that the state presented sufficient evidence of a trust relationship.

(e) State v. Leroy Dupree, 354 S. C. 276, 583 S. E. 2d 437.

I represented the state in the South Carolina Court of Appeals. This case established that a properly conducted controlled drug buy can establish probable cause for a search warrant despite the affiant’s lack of knowledge of the informant’s history of reliability. I believe this was the first reported South Carolina case upholding probable cause for a search warrant under the totality of the circumstance test even though law enforcement was relying on a first time informant.”

The following is Judge Martin’s account of the civil appeal he has personally handled:

Greenwood Urological v. Salter Circuit Court May 27, 2008.

This was an appeal to Circuit Court from my decision as a magistrate. I of course drafted the magistrate’s return. The issue in this case was whether Greenwood Urological’s cause of action was legal or equitable. The character of the claim as either legal or equitable mattered because magistrates lack equitable jurisdiction.

The following is Judge Martin’s account of five criminal appeals he has personally handled:

(a) State v. Nicholson, 366 S. C. 568, 623 S. E. 2d 100 (S. C. 2005);

(b) State v. Thompson, 363 S. C. 192, 609 S. E. 2d 556 (S. C. App. 2005);

(c) State v. Flowers, 360 S. C. 360 S. C. 1,598 S. E. 2d (S. C. App. 2004);

(d) State v. Mathis, 359 S. C. 450, 597 S. E. 2d 872 (S. C. App. 2004);

(e) State v. Smith, 359 S. C. 481, 597 S. E. 2d 888 (S. C. App. 2004).

Judge Martin reported that he has held the following judicial office:

“I am presently a full-time Magistrate Court Judge in Greenwood County. I began serving as such in May of 2007. My criminal jurisdiction is limited to crimes which do not carry possible penalties of more than thirty days in jail or a five hundred dollar fine. My civil jurisdiction extends to law cases in which neither party seeks more than seven thousand five hundred dollar in damages.”

Judge Martin provided the following list of his most significant orders or opinions:

(a) Richard Grooms v. Jessica Crawford;

(b) Clarence Young v. David Johnston;

(c) Oliver Baylor v. Coldwell Baker;

(d) Wynetta Hill v. Danita Goodman;

(e) Scott Buist v. Tommy Mc Cutsheon.

Judge Martin reported the following regarding his employment while serving as a judge:

“My job as a magistrate judge precludes me from other employment.”

Judge Martin further reported the following regarding an unsuccessful candidacy:

“I was an unsuccessful candidate in the last election for circuit court judge for the eighth judicial circuit.”

(9) Judicial Temperament:

The Commission believes that Judge Martin’s temperament has been and would continue to be excellent.

(10) Miscellaneous:

Judge Martin is married to Cynthia Susan Martin. He has one child.

Judge Martin reported that he was a member of the following bar associations and professional associations:

(a) South Carolina Bar;

(b) South Carolina Summary Court Judges’ Association.

Judge Martin provided that he was a member of the following civic, charitable, educational, social, or fraternal organizations:

(a) Lions Club;

(b) Festival of Flowers volunteer.

Judge Martin further reported:

I have had the privilege in my career to experience many perspectives in the court room, as a prosecutor, public defender, judge, and an assistant attorney general. I believe this range of experience would help me be fair and even-handed. I have stood in each one’s shoes and I understand each one’s pressures and concerns.

As a public defender, prosecutor, and magistrate, I have many years of experience interacting with court room participants who are less than well-versed in the law and courtroom procedure. I believe this experience would help me deal effectively with pro se litigants who sometimes appear in the Administrative Court.

**The Piedmont Citizens Advisory Committee found Judge Martin to be “Well-Qualified” for two of the nine evaluative criteria: physical health and mental stability. The Committee found Judge Martin “Qualified” for seven of the nine evaluative criteria: constitutional qualifications, ethical fitness, professional and academic ability, character, reputation, experience, and judicial temperament. They also found Judge Martin: “qualified for the office he is seeking. The decision of the Committee was unanimous.”**

(11) Commission Members’ Comments:

The Commission commented that Judge Martin is very intelligent and well-spoken. They noted that Judge Martin has a good demeanor and has ably served as a Magistrate Court Judge.

(12) Conclusion:

The Commission found Judge Martin qualified, but not nominated, to serve as an Administrative Law Court judge.

**Carol Ann Isaac McMahan**

**Administrative Law Court, Seat 6**

**Commission’s Findings: QUALIFIED, BUT NOT NOMINATED**

(1) Constitutional Qualifications:

Based on the Commission’s investigation, Ms. McMahan meets the qualifications prescribed by law for judicial service as an Administrative Law Court judge.

Ms. McMahan was born in 1953. She is 56 years old and a resident of Anderson, South Carolina. Ms. McMahan provided in her application that she has been a resident of South Carolina for at least the immediate past five years and has been a licensed attorney in South Carolina since 1986.

(2) Ethical Fitness:

The Commission’s investigation did not reveal any evidence of unethical conduct by Ms. McMahan.

Ms. McMahan demonstrated an understanding of the Canons of Judicial Conduct and other ethical considerations important to judges, particularly in the areas of ex parte communications, acceptance of gifts and ordinary hospitality, and recusal.

Ms. McMahan reported that she has made $.44 in campaign expenditures for postage.

Ms. McMahan testified she has not:

(a) sought or received the pledge of any legislator prior to screening;

(b) sought or been offered a conditional pledge of support by a legislator;

(c) asked third persons to contact members of the General Assembly prior to screening.

Ms. McMahan testified that she is aware of the Commission’s 48-hour rule regarding the formal and informal release of the Screening Report.

(3) Professional and Academic Ability:

The Commission found Ms. McMahan to be intelligent and knowledgeable. Her performance on the Commission’s practice and procedure questions met expectations.

Ms. McMahan described her past continuing legal or judicial education during the past five years as follows:

Conference/CLE Name Date

(a) SCARLA Seminars: 9/19/2008; 9/21/2007; 9/22/2006, 9/23/2005; 10/1/2004, 9/20/2002;(2003 not in my records);

(b) Dramatic Changes in Criminal Law 7/13/2007;

(c) ALI-ABA Confidentiality and Attorney Client Communications 12/30/2008;

(d) Ethics Roadshow 12/10/2007;

(e) Multistate Tax Commission – Tax Nexus

Training (no CLE requested) 10/2007;

(f) Top Trial Lawyers Tackle Evidence 2/8/2008;

(g) Domestic Violence 5/31/2006;

(h) The Truth About Opinions 11/21/2006;

(i) Secrecy and the Courts 4/19/2005;

(j) Managing Litigation w/Technology 12/19/2005;

(k) S.C. Association of Counties 12/9/2005;

(l) Advocacy 12/10/2004;

(m) Beyond the Bar II 11/05/2004;

(n) Circuit Court Arbitration 02/15/2002;

(o) Capital Litigation 06/26/2009.

Ms. McMahan reported that she has taught the following law-related courses:

“As a part of the South Carolina Bar’s program: ‘Law School for Non-Lawyers’ taught ‘An Overview of South Carolina Courts’ on September 11, 2007 in Anderson, South Carolina. I am scheduled to teach this same course in October, 2009. I have also taught a tax course at Tri-County Technical College in Pendleton, South Carolina.”

Ms. McMahan reported that she has published the following:

Authored:

(a) “Client Alert: Effects of the 2% Withholding Tax”–South Carolina Lawyer, July/Aug. 1990;

(b) “Withholding Whammies in South Carolina”–1991 Tax Commentaries, S.C. Assoc. of CPAs;

(c) “Are Settlement Procedures the Way to Resolve Tax Nexus Issues” - Journal of Multistate Taxation, Nov/Dec. 1992; also reprinted in South Carolina Lawyer, May/June, 1993;

(d) “One-Stop Business Shopping”: Business & Economics, Jan/Feb/Mar, 2003.

Co-Authored:

(a) “What’s the Use Tax”–South Carolina Lawyer, July/Aug. 1991;

(b) “The Taxation of Multistate Corporations in South Carolina”:-1991 Tax Commentaries, S.C. Association of CPAs;

(c) “What’s in a Use Tax”–1991 Tax Commentaries, S.C. Assoc. of CPAs;

(d) “Manufacturing and Business Personal property Tax Returns, Did You Know?” – 1992 Tax Commentaries, S.C. Assoc. of CPAs;

(d) “Katie Bar the Door the Tax Person Is Here”–1992 Tax Commentaries, S.C. Assoc. of CPAs.

(4) Character:

The Commission’s investigation of Ms. McMahan did not reveal evidence of any founded grievances or criminal allegations made against her. The Commission’s investigation of Ms. McMahan did not indicate any evidence of a troubled financial status. Ms. McMahan has handled her financial affairs responsibly.

The Commission also noted that Ms. McMahan was punctual and attentive in her dealings with the Commission, and the Commission’s investigation did not reveal any problems with her diligence and industry.

(5) Reputation:

Ms. McMahan reported that she is not rated by Martindale-Hubbell.

Ms. McMahan reported the following military service:

“From 1974 to 1977 I served in the United States Army Security Agency (now a part of the U.S. Army). I achieved the rank of E-4 and in 1977 I was honorably discharged**.”**

(6) Physical Health:

Ms. McMahan appears to be physically capable of performing the duties of the office she seeks.

(7) Mental Stability:

Ms. McMahan appears to be mentally capable of performing the duties of the office she seeks.

(8) Experience:

Ms. McMahan was admitted to the South Carolina Bar in 1986.

She gave the following account of her legal experience since graduation from law school:

Upon graduation from USC Law School I was employed by Price Waterhouse in Columbia, South Carolina as a Tax Consultant. This involved research and application of various federal and state tax laws.

In December/1988 I was employed by the South Carolina Department of Revenue as a Tax Analyst. At that time I conducted legal research and represented the Field Services Division of the Department (at that time “Tax Commission”) before the Tax Commissioners. In the fall of 1995 I began preparing Department Determinations regarding regulatory violation and licensing issues and eventually tried such matters as contested cases before the Administrative Law Court (ALC) in 1996. Since 1996 I have served as sole counsel on a variety of contested cases to include regulatory, tax and disciplinary matters.

In July of 2006 I was also assigned as counsel to various tax matters. I have also served as an Assistant Attorney General in tax matters in the absence of Thomas McDermott (deployed to Iraq). To date I continue to handle criminal tax cases as assigned.

I currently represent the Department in a variety of contested cases before the ALC. Additionally I have had the unique opportunity to work as a mentor with the attorneys in the Honors Program at the Department. This is a fairly new program developed by the Department’s Director, to hire and mentor new members of the S.C. Bar.

Ms. McMahan further reported:

On a variety of matters I represent the Department of Revenue before the Administrative Law Court (ALC). For the most part I serve as sole counsel for the Department. I also serve as counsel on the appeal of such matters to the Court of Appeals and Supreme Court. At times I appear in Circuit Court on foreclosure, surplus fund matters and other cases as assigned.

Ms. McMahan reported the frequency of her court appearances during the past five years as follows:

(a) Federal: none;

(b) State: 100%.

Ms. McMahan reported the percentage of her practice involving civil, criminal, and domestic matters during the last five years as follows:

(a) Civil: 98%;

(b) Criminal: 2%;

(c) Domestic: 0%.

Ms. McMahan reported the percentage of her practice in trial court during the past five years as follows:

(a) Jury: 0%;

(b) Non-jury: 100%.

Ms. McMahan provided that she most often served as sole counsel. Specifically, she reported that, “[a]s a litigation attorney for the Department of Revenue the vast majority of my case load concern administrative, regulatory and civil tax matters. In the last year and a half I have also appeared in General Sessions for criminal tax cases. With the exception of two cases, Lexington Medical vs. S.C. Department of Revenue and Anonymous Taxpayers. S.C. Department of Revenue, I served as sole counsel.”

The following is Ms. McMahan’s account of her most significant litigated matters:

(a) McNickels Inc. v. S.C. Dept. of Revenue, 351 S.C. 629, 503 S.E. 2d 723 (1998). This case is of note as the issue involved the validity of a Department regulation. Te Supreme Court sustained the Department’s position.

(b) Sonoco Products Company v. S.C. Dept. of Revenue, 2008 WL 2329754 (2008). (I handled the oral argument only). This case involved a real property tax matter regarding the meaning of the word ‘contiguous’ for determining the applicable tax base of an office building. This case was significant in that it involved the application of a property tax statute with implications as to other taxpayers similarly situated.

(c) Video Gaming Consultants v. S.C. Dept. of Revenue 358 S.C. 647, 595 S.E. 2d 890 (CA, 2004). (Oral argument only). The Court of Appeals ruled that the Department was not required to pay attorneys fees for “pressing its claim” in this case because the underlying issue was the constitutionality of a statute.

(d) John and Melody Gabriel v. S.C. Dept. of Revenue, Docket No. 07-ALJ-17-0407-CC, ALC Final Decision June 17, 2009. This contested case involved the application of accommodations tax. The taxpayers sought to challenge the Department’s application of the tax on rental receipts they received from a beach rental facility by seeking to maintain a class action against the Department. The ALC denied class action status on the basis of the Revenue Procedures Act and a prior ALC decision. The ALC also upheld the Department’s consistent administrative application of the tax.

The following is Ms. McMahan’s account of the civil appeals she has personally handled:

(a) McNickels Inc. v. S.C. Dept. of Revenue, 351 S.C. 629, 503 S.E. 2d 723 (1998);

(b) Sonoco Products Company v. S.C. Dept. of Revenue, 2008 WL 2329754 (2008). (I handled the oral argument only with implications as to other taxpayers similarly situated;

(c) Video Gaming Consultants v. S.C. Dept. of Revenue 358 S.C. 647, 595 S.E. 2d 890 (CA, 2004). (Oral argument only);

(d) Evans v. S.C. Dept. of Revenue, (Unpublished); (Court of Appeals);

(e) S.C. Dept. of Revenue v. Stardust Amusement Co., 534 S.E.2d 698 (2000);

(f) Blackbaud Inc. v. S.C. Dept. of Revenue, Appeal of ALC Final Decision, Docket No. 07-ALJ-17-0317-CC (Currently before the Court of Appeals);

(g) ESA Services Inc. v. S.C. Dept. of Revenue, Appeal of ALC Final Decision, Docket No. 08-ALJ-17-0047-CC (Currently before the Court of Appeals).

Ms. McMahan reported that she has not personally handled any criminal appeals.

Ms. McMahan further reported the following regarding unsuccessful candidacies:

“On April 15, 2009, the Judicial Merit Selection Commission (JMSC) found me qualified for ALC Seat No. 5, however I was not nominated. On December 4, 2008, the JMSC found me qualified and nominated me as a candidate for ALC Seat No. 4. I was not successful in that endeavor.”

(9) Judicial Temperament:

The Commission believes that Ms. McMahan’s temperament would be excellent.

(10) Miscellaneous:

Ms. McMahan is married to George Carroll McMahan. She has three children.

Ms. McMahan reported that she was a member of the following bar associations and professional associations:

(a) S.C. Bar Association 1986 to Present;

(b) S.C. Bar Delegate: 2006/2007.

Ms. McMahan provided that she was a member of the following civic, charitable, educational, social, or fraternal organizations:

(a) School Improvement Council, Riverside Middle School

(Current) School Improvement Council, Pendleton High School 2003-06;

(b) St. Joseph’s Catholic Church, Catechist

(Sunday School Teacher) 2001-2006;

(c) St. Andrews Catholic Church, 2006-Present;

(d) Teakwood Plantation Homeowners’ Association:

(Board Member 2003-2007, 2009; President-2003); Architectural Review Committee, 2009;

(e) Special Olympics Volunteer- 2008 to present.

(f) Law School Award 1983: The Prentice Hall Income Tax Award.

Ms. McMahan further reported:

The responses to all of the questions set forth herein provide an accurate description of my character and work ethic. That is, I am hard working, efficient in my personal and professional life and a good manager, keeping in delicate balance my professional and family responsibilities.

**The Upstate Citizens Committee reported that Ms. McMahan is “Well-Qualified” for each of the nine evaluative criteria: constitutional qualifications, ethical fitness, professional and academic ability, character, reputation, physical health, mental stability, experience, and judicial temperament.**

(11) Commission Members’ Comments:

The Commission commented that Ms. McMahan was impressive in her appearance before the Commission and also with the information she presented to the Commission. They noted that she is very intelligent as evidenced by her score on the Commission’s practice and procedure test, which would assist her service as a jurist on the Administrative Law Court.

(12) Conclusion:

The Commission found Ms. McMahan qualified, but not nominated, to serve as an Administrative Law Court judge.

**Fredrick Scott Pfeiffer**

**Administrative Law Court, Seat 6**

**Commission’s Findings: QUALIFIED, BUT NOT NOMINATED**

(1) Constitutional Qualifications:

Based on the Commission’s investigation, Mr. Pfeiffer meets the qualifications prescribed by law for judicial service as an Administrative Law Court judge.

Mr. Pfeiffer was born in 1966. He is 43 years old and a resident of Greenville, South Carolina. Mr. Pfeiffer provided in his application that he has been a resident of South Carolina for at least the immediate past five years and has been a licensed attorney in South Carolina since 1993.

(2) Ethical Fitness:

The Commission’s investigation did not reveal any evidence of unethical conduct by Mr. Pfeiffer.

Mr. Pfeiffer demonstrated an understanding of the Canons of Judicial Conduct and other ethical considerations important to judges, particularly in the areas of ex parte communications, acceptance of gifts and ordinary hospitality, and recusal.

Mr. Pfeiffer reported that he has not made any campaign expenditures.

Mr. Pfeiffer testified he has not:

(a) sought or received the pledge of any legislator prior to screening;

(b) sought or been offered a conditional pledge of support by a legislator;

(c) asked third persons to contact members of the General Assembly prior to screening.

Mr. Pfeiffer testified that he is aware of the Commission’s 48-hour rule regarding the formal and informal release of the Screening Report.

(3) Professional and Academic Ability:

The Commission found Mr. Pfeiffer to be intelligent and knowledgeable. His performance on the Commission’s practice and procedure questions met expectations.

Mr. Pfeiffer described his past continuing legal or judicial education during the past five years as follows:

Conference/CLE Name Date

(a) S.C. Bar Convention 01/22/09;

(b) S.C. Business Law Torts Update 11/21/08;

(c) Real Estate Seminar 10/12/07;

(d) Advanced Asset Protection 7/11/07;

(e) Fundamentals of Securities Law 6/21/07;

(f) S.C. Bar Convention 1/25/07;

(g) The Unforgiven Minute 12/7/06;

(h) S.C. Business One Stop 12/6/06;

(i) Master in Equity Bench/Bar 10/14/05;

(j) CLE Seminar 12/3/04;

(k) LLC’s and LLP’s in S.C. 11/18/04;

(l) Revise Lawyers’ Oath 10/22/04.

Mr. Pfeiffer reported that he has taught the following law-related courses:

(a) I have presented Landlord and Tenant Law at Lorman CLE Programs.

(b) I have made annual lectures on Immigration Law and Policy to Dr. Dianne Vecchio’s Immigration History class at Furman University

(c) I have made presentations on corporation law to various trade and industry groups, including REALTOR associations, GSATC, and Insurance Agents.

(d) I was the Education Coach of the Furman University Mock Trial Team for 5 Seasons and taught Evidence and Civil and Criminal Procedure and Trial Advocacy skills as a part of that activity.

Mr. Pfeiffer reported that he has published the following:

Pfeiffer, F. Scott, *Does Failure to Advise Clients of Immigration Consequences of Guilty Pleas Constitute Malpractice?*, South Carolina Lawyer Sept./Oct. 1997, at 32.

(4) Character:

The Commission’s investigation of Mr. Pfeiffer did not reveal evidence of any founded grievances or criminal allegations made against him. The Commission’s investigation of Mr. Pfeiffer did not indicate any evidence of a troubled financial status. Mr. Pfeiffer has handled his financial affairs responsibly.

The Commission also noted that Mr. Pfeiffer was punctual and attentive in his dealings with the Commission, and the Commission’s investigation did not reveal any problems with his diligence and industry.

(5) Reputation:

Mr. Pfeiffer reported that his Martindale-Hubbell rating is BV.

Mr. Pfeiffer reported the following military service:

June 1988 – August 1998

US Army; Captain, Military Intelligence; Discharged-Honorable.

(6) Physical Health:

Mr. Pfeiffer appears to be physically capable of performing the duties of the office he seeks.

(7) Mental Stability:

Mr. Pfeiffer appears to be mentally capable of performing the duties of the office he seeks.

(8) Experience:

Mr. Pfeiffer was admitted to the South Carolina Bar in 1993.

He gave the following account of his legal experience since graduation from law school:

(a) 1993-94 Judicial Law Clerk to G. Ross Anderson, Jr., United States District Judge;

(b) 1994-99 Associate Attorney at Nelson Mullins Riley & Scarborough, LLP in their Corporate, Security and Tax Group;

(c) 1999-Present Pfeiffer Gantt Gleaton Wyatt, PA Managing Partner, practice includes Corporation Law, Civil and Administrative Hearings and Litigation, Mediations and Arbitrations, Immigration Law and Commercial and Contract Law.

Mr. Pfeiffer further reported:

“My primary experience before the Administrative Law Court has been the litigation of Bingo Regulations. I have litigated the Department of Revenue’s interpretation of the Bingo Act involving fines levied for conduct the Department considered a violation of the act. I have not appeared frequently before the Court in the last five years, although I have handled numerous matters that could have been appealed to the Court if I was not successful below.”

Mr. Pfeiffer reported the frequency of his court appearances during the past five years as follows:

(a) Federal: 60%;

(b) State: 40%.

Mr. Pfeiffer reported the percentage of his practice involving civil, criminal, and domestic matters during the last five years as follows:

(a) Civil: 80%;

(b) Criminal: 20%;

(c) Domestic: 0%.

Mr. Pfeiffer reported the percentage of his practice in trial court during the past five years as follows:

(a) Jury: 50%;

(b) Non-jury: 50%.

Mr. Pfeiffer provided that he most often served as sole or chief counsel.

The following is Mr. Pfeiffer’s account of his five most significant litigated matters:

(a) Gallagher v. Evert, 353 S.C. 59, 63, 577 S.E.2d 217, 219 (Ct. App. 2002). I represented The Estate of Mrs. Gallagher from the Motion to Reconsider before the Probate Judge, through the Appeal to the Circuit Court and to final disposition before the South Carolina Court of Appeals. The case decided an issue of first impression regarding the Right of Elective Share.

(b) Tomz v. Capital Investment Funding, LLC. This was a $40 Million Class Action Lawsuit in Greenville County involving a failed investment company. I was Capital Investment Funding’s Chief Counsel. It was settled at mediation.

(c) USA v. Phillips. This was a Federal Criminal lawsuit in Washington State. I represented Anne Phillips, the bookkeeper for a multi-million dollar High Yield Fraud. I represented Anne, who was on the run in Costa Rica, with regard to her surrender to US authorities, her proffer and plea negotiations and her eventual plea. I was Chief Counsel.

(d) Urrutia v. Stewart. This was an international will contest. I represented Mr. Bill Stewart, former contributing editor of US New and World Report. The decedent was his brother. The case, filed in Miami Florida, revolved around complex trust and estate issues in Florida, as well as ancillary administration issues in New Mexico and issues of the international conflict of laws revolving around whether the Argentine estate administration and disposal of the decedent’s Argentine assets was binding on the Miami Court. I was chief counsel and had Miami local counsel.

(e) Matter of Farhan. This was a federal Immigration Court removal proceeding in which the Government was attempting to deport this woman to Jordan, based on misdemeanor crimes committed when she was young. The woman was married with children, owned her own small business, and had not been to Jordan since she was small. I was sole counsel and obtained Cancellation of Removal, a very rarely granted remedy, over the Government’s objections at trial.

The following is Mr. Pfeiffer’s account of the civil appeal he has personally handled:

Gallagher v. Evert, 353 S.C. 59, 63, 577 S.E.2d 217, 219 (Ct. App. 2002).

Mr. Pfeiffer reported that he has not personally handled any criminal appeals.

(9) Judicial Temperament:

The Commission believes that Mr. Pfeiffer’s temperament would be excellent.

(10) Miscellaneous:

Mr. Pfeiffer is not married. He has two children.

Mr. Pfeiffer reported that he was a member of the following bar associations and professional associations:

(a) South Carolina Bar Association Delegate to South Carolina Bar House of Delegates, 2008-Present;

(b) American Immigration Lawyers Association;

(c) Federal Bar Association;

(d) Greenville County Bar Association.

Mr. Pfeiffer provided that he was a member of the following civic, charitable, educational, social, or fraternal organizations:

(a) Sigma Chi Fraternity (Lifetime Member);

(b) Boardgame Player’s Association (General Counsel);

(c) Riley Institute at Furman University Legal Fellow.

Mr. Pfeiffer further reported:

“I believe I have a broad life and legal experience, including the representation of small and entrepreneurially owned businesses for the past ten years that make me well suited to bring a broad perspective to the administrative law court. I believe my broad background will assist me in understanding the complexities and wider ramifications of the administrative matters that will come before the court, and will give me perspective on the effects of regulation and regulatory activity on business in South Carolina.”

**The Upstate Citizen’s Committee on Judicial Qualification found Mr. Pfeiffer to be “Well-Qualified”for each of the nine evaluative criteria: constitutional qualifications, ethical fitness, professional and academic ability, character, reputation, physical health, mental stability, experience, and judicial temperament. The Committee further commented that they were “impressed with this candidate’s level of experience and understanding of the workings of the regulatory agencies of the state and the role the Administrative Law Judge plays in that process.”**

(11) Commission Members’ Comments:

The Commission commented on Mr. Pfeiffer’s active involvement with the State Bar and his involvement in teaching law-related programs. They noted he has ably practiced law for the past 16 years.

(12) Conclusion:

The Commission found Mr. Pfeiffer qualified, but not nominated, to serve as an Administrative Law Court judge.

**Lee W. Zimmerman**

**Administrative Law Court, Seat 6**

**Commission’s Findings: QUALIFIED AND NOMINATED**

(1) Constitutional Qualifications:

Based on the Commission’s investigation, Mr. Zimmerman meets the qualifications prescribed by law for judicial service as an Administrative Law Court judge.

Mr. Zimmerman was born in 1951. He is 58 years old and a resident of Columbia, South Carolina. Mr. Zimmerman provided in his application that he has been a resident of South Carolina for at least the immediate past five years and has been a licensed attorney in South Carolina since 2000. He was also admitted to the Colorado Bar in 1981 and the New York Bar in 1983.

(2) Ethical Fitness:

The Commission’s investigation did not reveal any evidence of unethical conduct by Mr. Zimmerman.

Mr. Zimmerman demonstrated an understanding of the Canons of Judicial Conduct and other ethical considerations important to judges, particularly in the areas of ex parte communications, acceptance of gifts and ordinary hospitality, and recusal.

Mr. Zimmerman reported that he has not made any campaign expenditures.

Mr. Zimmerman testified he has not:

(a) sought or received the pledge of any legislator prior to screening;

(b) sought or been offered a conditional pledge of support by a legislator;

(c) asked third persons to contact members of the General Assembly prior to screening.

Mr. Zimmerman testified that he is aware of the Commission’s 48-hour rule regarding the formal and informal release of the Screening Report.

(3) Professional and Academic Ability:

The Commission found Mr. Zimmerman to be intelligent and knowledgeable. His performance on the Commission’s practice and procedure questions met expectations.

Mr. Zimmerman described his past continuing legal or judicial education during the past five years as follows:

Conference/CLE Name Date

(a) Pros and Cons of Tort Reform 1/20/2004;

(b) Administrative and Regulatory Law 1/23/2004;

(c) Environmental and Natural Resources 1/23/2004;

(d) Coming Technology 2/24/2004;

(e) 33rd Annual ABA Env. Law Conference 3/11/2004

(f) Revised Lawyer’s Oath 9/21/2004;

(g) Best Ethical Practices 9/24/2004;

(h) Effective Mediation Strategies 10/26/2004;

(i) Admin and Reg. Law Committee Seminar (Presenter) 1/21/2005;

(j) Environmental and Natural Resources 1/22/2005;

(k) Attorney EDF Training 1/10/2005;

(l) Civility, Presidents and Professions 1/25/2005;

(m) Civil Court Mediation Certification 2/10/2005;

(n) Tort Reform or Torts Deformed 2/22/2005;

(o) Current Issues Update 10/28/2005;

(p) Legal Jeopardy 1/24/2006;

(q) New Court Developments 2/21/2006;

(r) Loss Prevention 3/25/2006;

(s) SCARLA Seminar and Annual Mtg. 9/22/2006;

(t) Loss Prevention Team 10/6/2006;

(u) Act 387 11/3/2006;

(v) Loss Prevention 4/21/2007;

(w) SCARLA Conference 9/21/2007;

(x) US Supreme Ct. and Punitive Damages 10/16/2007;

(y) S.C. Bar – Env. And Nat. Res. Section 1/24/2008;

(z) S.C. Bar - Gov’t and Admin. Law Section 1/25/2008;

(aa) Attorney Disciplinary Counsel 1/22/2008;

(bb) Trial by Jury 4/9/2008

(cc) Government Law Update 6/20/2008;

(dd) Loss Prevention Presentation 10/4/2008;

(ee) Expert Witnesses on Parade 10/14/2008;

(ff) SCARLA Conference 9/19/2008;

(gg) Discovery Problems and Abuses 11/18/2008;

(hh) Municipal Attorneys Assoc. Mtg. 12/5/2008;

(ii) Flowing from Bates v. State Bar 1/20/2009.

Mr. Zimmerman reported that he has taught the following law-related courses:

(a) S.C. Bar Convention, Multi-jurisdictional Law Practice (1/2005).

(b) N.Y.S. Bar CLE – Practice before the Dept. of Environmental Conservation (1999)

(c) Toxic Tort Presentations, Regional Installation Restoration Program Workshops, Air Force Environmental Law Division (1986-88).

(d) Adjunct Faculty, Air Force Judge Advocate General’s School, Environmental Law and Advance Environmental Law (1989-93).

Mr. Zimmerman reported that he has published the following:

“Federal Agency Participation as a Potentially Responsible Party in CERCLA Section 122 Settlements at Third-Party Sites,” LL.M. Thesis, The National Law Center, George Washington University, 1991.”

(4) Character:

The Commission’s investigation of Mr. Zimmerman did not reveal evidence of any founded grievances or criminal allegations made against him. The Commission’s investigation of Mr. Zimmerman did not indicate any evidence of a troubled financial status. Mr. Zimmerman has handled his financial affairs responsibly.

The Commission also noted that Mr. Zimmerman was punctual and attentive in his dealings with the Commission, and the Commission’s investigation did not reveal any problems with his diligence and industry.

(5) Reputation:

Mr. Zimmerman reported that he is not rated by Martindale-Hubbell.

Mr. Zimmerman reported the following military service:

June 1969 – July 1993, USAF, Lt. Colonel, Honorable. Serial number: XXX-XX-XXXX

Mr. Zimmerman reported that he has held the following public office:

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

(6) Physical Health:

Mr. Zimmerman appears to be physically capable of performing the duties of the office he seeks.

(7) Mental Stability:

Mr. Zimmerman appears to be mentally capable of performing the duties of the office he seeks.

(8) Experience:

Mr. Zimmerman was admitted to the South Carolina Bar in 2000.

He gave the following account of his legal experience since graduation from law school:

(a) Assistant Staff Judge Advocate, United States Air Force Academy, 1981-83.

Claims Officer and Chief, Military Justice and Labor Law. Investigated tort and medical malpractice claims and adjudicated personnel and tort claims filed at the USAFA; represented management in administrative hearings before the EEO and Merit Systems Protection Boards; Hearing Officer in cadet disenrollment cases; represented the Air Force in Special and General Courts-Martial, including a two-week premeditated murder case; Cadet Squadron Professional Ethics Advisor.

(b) Deputy Staff Judge Advocate, Eielson AFB, Alaska, 1983-85.

Chief, Military Justice and Labor Law. Responsible for all military justice actions at a base with over 4,000 military and 600 civilian personnel; Article 32, UCMJ, Investigating Officer and Legal Advisor on Administrative Discharge Boards; lead prosecutor in ten courts-martial; Alaskan Air Command nominee for the Albert Kuhfield Award as the Outstanding Young Judge Advocate.

(c) Staff Attorney and Chief, Environmental Torts, Air Force Claims and Tort Litigation Staff, Headquarters, USAF, 1985-89.

Analyzed major tort claims against the Air Force; represented the United States in over fifteen toxic tort cases alleging personal injury from asbestos exposure, radiation exposure, and ingestion of contaminated waste; negotiated and coordinated settlement of cases with the U.S. Department of Justice and U.S. Attorneys throughout the United States; provided inputs for responses to Presidential and Congressional inquiries; lectured on “toxic tort” liability to over 500 lawyers and engineers at seven regional workshops; appointed as a Special U.S. Attorney and a member of the Department of Justice trial team in Clark v. United States, the first toxic tort case litigated against the Department of Defense; Headquarters, Air Force nominee for the Albert Kuhfield Award as the Outstanding Young Judge Advocate.

(d) Student, The National Law Center, The George Washington University, 1989-90.

Competitively selected by U.S. Air Force to obtain LL.M. in Environmental Law; one semester legal internship at Headquarters, U.S.E.P.A.

(e) Regional Counsel, Air Force Central Region Environmental Office, Dallas, Texas, 1989-93.

Managed the legal office responsible for providing environmental legal services to the Air Force’s Central Region Compliance Office and 40 major Air Force installations in the central United States; coordinated the resolution of potential liability with Department of Justice, EPA and private party attorneys at 45 Superfund sites; negotiated Compliance Agreements and Consent Decrees with EPA, state regulatory agencies, private potentially responsible parties, and contractors; developed a guidance manual for federal agencies named as potentially responsible parties at Superfund sites; conducted environmental compliance audits at Air Force facilities.

(f) Attorney, East Amherst, New York, 1993-94.

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

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

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

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

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

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

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

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

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

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

Provided legal advice to hazardous waste and solvent recycling facilities throughout the United States; negotiated settlement of regulatory and enforcement actions with state environmental agencies; assisted outside bankruptcy counsel in identifying, evaluating, and resolving creditors’ claims against company; established legal foundation for closure and post-closure care of the Pinewood Hazardous Waste Landfill.

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

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

Mr. Zimmerman further reported:

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

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

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

Mr. Zimmerman reported the frequency of his court appearances during the past five years as follows:

(a) federal: One;

(b) state: ALC: nine. Magistrate: two. Circuit: two.

Mr. Zimmerman reported the percentage of his practice involving civil, criminal, and domestic matters during the past five years as follows:

(a) civil: 90%;

(b) criminal: 10%;

(c) domestic: None.

Mr. Zimmerman reported the percentage of his practice in trial court during the last five years as follows:

(a) jury: None;

(b) non-jury: 100%.

Mr. Zimmerman provided that he most often served as “Chief counsel in Alcohol Beverage Control Act matters and environmental/agricultural permitting matters. Associate counsel in health care matters.”

The following is Mr. Zimmerman’s account of his five most significant litigated matters:

(a) United States v. Garries, General Court-Martial, USAF Academy, 1983. This was a capital murder case. I served as assistant trial counsel in this two and a half week General Court-Martial before a ten member jury. Over 30 fact and expert witnesses presented evidence. I conducted the direct examination of seven prosecution witnesses, including a forensic chemist. I also had primary responsibility for opposing a defense motion for dismissal based on lack of jurisdiction and presented the oral argument on the issue of priest-penitent privilege that arose unexpectedly during the course of the proceeding. Airman Garries was convicted of premeditated murder and was sentenced to confinement for life.

(b) United States v. Mayes, General Court-Martial, USAF Academy, 1982.

This was a three day prosecution of an Air Force Academy cadet for theft and forgery. The case was significant because it was the first time in over 10 years that a cadet was criminally prosecuted by the Air Force. Prior to the Mayes case, cadets who committed criminal acts were administratively discharged from the Air Force or disenrolled for violating the Academy Honor Code. The conviction that resulted from the case was significant because it demonstrated to the Wing of Cadets that theft, especially from their fellow cadets, would be criminally prosecuted.

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

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

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

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

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

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

Mr. Zimmerman reported that he has not personally handled any civil or criminal appeals.

Mr. Zimmerman further reported the following regarding an unsuccessful candidacy:

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

(9) Judicial Temperament:

The Commission believes that Mr. Zimmerman’s temperament would be excellent.

(10) Miscellaneous:

Mr. Zimmerman is married to Nancy P. Zimmerman. He has two children.

Mr. Zimmerman reported that he was a member of the following bar associations and professional associations:

(a) South Carolina Administrative and Regulatory Law Association;

(b) Richland County Bar Association;

(c) American Bar Association;

(d) John Belton O’Neall Inn of Court.

Mr. Zimmerman provided that he was a member of the following civic, charitable, educational, social, or fraternal organizations:

(a) Town Attorney, Town of Blythewood;

(b) Air Force Association;

(c) St. Joseph Catholic Church;

(d) United States Air Force Academy Association of Graduates;

(e) American Red Cross of Central South Carolina, Development Committee.

Mr. Zimmerman further reported:

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

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

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

Integrity is the foundation of an independent, trusted and respected judiciary. A judge with integrity is courageous, honest, responsible, and accountable for his actions. The judge with integrity will do what is right, even when no one is looking, or his decision may be unpopular. A judge without integrity cannot be effective.

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

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

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

**The Midlands Citizen’s Committee on Judicial Qualification found Mr. Zimmerman to be “Well-Qualified” for each of the nine evaluative criteria: constitutional qualifications, ethical fitness, professional and academic ability, character, reputation, physical health, mental stability, experience, and judicial temperament. In summary the Committee stated, “Mr. Zimmerman is very highly qualified to serve as an Administrative Law Court Judge. We believe he would serve the Administrative Law Court in an outstanding manner.”**

(11) Commission Members’ Comments:

The Commission commented that Mr. Zimmerman’s maturity, intellect, and his work ethic would be great assets on the Administrative Law Court. They noted his range of legal experience, including that as a hearing officer in New York, and his LLM in Environmental Law would assist his service as a judge.

(12) Conclusion:

The Commission found Mr. Zimmerman qualified and nominated him for election to the Administrative Law Court.

**CONCLUSION**

**The Judicial Merit Selection Commission found the following candidates QUALIFIED AND NOMINATED:**

SUPREME COURT

Seat 5 The Hon. Donald W. Beatty, Spartanburg, S.C.

COURT OF APPEALS (Chief Judge)

Seat 5 The Hon. John Cannon Few, Greenville, S.C.

Seat 5 The Hon. Daniel F. Pieper, Hanahan, S.C.

Seat 5 The Hon. Paul E. Short, Jr., Chester, S.C.

CIRCUIT COURT

First Judicial Circuit, Seat 2 The Hon. Diane Schafer Goodstein, Summerville, S.C.

Second Judicial Circuit, Seat 1 The Hon. Doyet A. “Jack” Early, III, Bamberg, S.C.

Third Judicial Circuit, Seat 1 The Hon. Ralph Ferrell Cothran, Jr., Manning, S.C.

Fourth Judicial Circuit, Seat 1 The Hon. Paul M. Burch, Pageland, S.C.

Sixth Judicial Circuit, Seat 1 The Hon. Brooks P. Goldsmith, Lancaster, S.C.

Eighth Judicial Circuit, Seat 1 The Hon.Frank Robert Addy, Jr., Greenwood, S.C.

Eighth Judicial Circuit, Seat 1 The Hon. Donald Bruce Hocker, Laurens, S.C.

Eighth Judicial Circuit, Seat 1 Joseph C. Smithdeal, Greenwood, S.C.

Thirteenth Judicial Circuit, Seat 1 The Hon.George Edward Welmaker, Easley, S.C.

Thirteenth Judicial Circuit, Seat 4 The Hon. David Garrison Hill, Greenville, S.C.

Fifteenth Judicial Circuit, Seat 1 The Hon. Steven H. John, Little River, S.C.

Sixteenth Judicial Circuit, Seat 1 The Hon. John Calvin Hayes, III, Rock Hill, S.C.

Sixteenth Judicial Circuit, Seat 2 The Hon. Lee S. Alford, York, S.C.

At-Large, Seat 8 David Craig Brown, Florence, S.C.

At-Large, Seat 8 Samuel Richardson Hubbard, III, Lexington, S.C.

At-Large, Seat 8 The Hon. Maité Murphy, Summerville, S.C.

FAMILY COURT

First Judicial Circuit, Seat 2 The Hon. William J. Wylie, Jr., Summerville, S.C.

First Judicial Circuit, Seat 3 The Hon. Nancy Chapman McLin, Summerville, S.C.

Second Judicial Circuit, Seat 1 Dennis M. Gmerek, Ridge Spring, S.C.

Second Judicial Circuit, Seat 1 Vicki Johnson Snelgrove, Aiken, S.C.

Third Judicial Circuit, Seat 1 The Hon. George Marion McFaddin, Jr., Gable, S.C.

Fourth Judicial Circuit, Seat 1 The Hon. Roger E. Henderson, Chesterfield, S.C.

Fifth Judicial Circuit, Seat 1 The Hon. Dorothy Mobley Jones, Columbia, S.C.

Fifth Judicial Circuit, Seat 4 The Hon. DeAndrea Gist Benjamin, Columbia, S.C.

Fifth Judicial Circuit, Seat 4 Stevens B. Elliott, Columbia, S.C.

Fifth Judicial Circuit, Seat 4 Gwendlyne Young Smalls, Columbia, S.C.

Seventh Judicial Circuit, Seat 1 Phillip K. Sinclair, Spartanburg, S.C.

Seventh Judicial Circuit, Seat 3 The Hon. Usha J. Bridges, Gaffney, S.C.

Eighth Judicial Circuit, Seat 2 The Hon.John M. Rucker, Newberry, S.C.

Ninth Judicial Circuit, Seat 3 The Hon. Judy L. McMahon, Charleston, S.C.

Ninth Judicial Circuit, Seat 6 The Hon. Jack Alan Landis, Moncks Corner, S.C.

Tenth Judicial Circuit, Seat 2 The Hon. Timothy Martin Cain, Walhalla, S.C.

Eleventh Judicial Circuit, Seat 1 The Hon. Kellum Wright Allen, West Columbia, S.C.

Twelfth Judicial Circuit, Seat 3 The Hon. Jerry Deese Vinson, Jr., Florence, S.C.

Thirteenth Judicial Circuit, Seat 2 Catherine Carr Christophillis, Greenville, S.C.

Thirteenth Judicial Circuit, Seat 2 Harry L. “Don” Phillips, Jr., Greenville, S.C.

Thirteenth Judicial Circuit, Seat 2 William Marsh Robertson, Greenville, S.C.

Thirteenth Judicial Circuit, Seat 4 The Hon. Alvin D. Johnson, Pickens, S.C.

Fourteenth Judicial Circuit, Seat 2 The Hon. Peter Leach Fuge, Bluffton, S.C.

Fifteenth Judicial Circuit, Seat 2 The Hon. Lisa Allen Kinon, Conway, S.C.

Sixteenth Judicial Circuit, Seat 1 The Hon. Robert E. Guess, Union, S.C.

Sixteenth Judicial Circuit, Seat 2 The Hon. David Glenn Guyton, Rock Hill, S.C.

Sixteenth Judicial Circuit, Seat 2 Tony Miller Jones, Rock Hill, S.C.

Sixteenth Judicial Circuit, Seat 2 Angela M. Killian, York, S.C.

ADMINISTRATIVE LAW COURT

Seat 3 The Hon. Carolyn Cason Matthews, Columbia, S.C.

Seat 6 LaTonya Dilligard Edwards, Irmo, S.C.

Seat 6 Sebastian Phillip Lenski, Columbia, S.C.

Seat 6 Lee W. Zimmerman, Columbia, S.C.

Respectfully submitted,

Sen. Glenn F. McConnell Rep. F.G. Delleney, Jr.

Sen. John M. “Jake” Knotts, Jr. Sen. Floyd Nicholson

Rep. Alan D. Clemmons Rep. David J. Mack III

Mr. John P. Freeman Mr. John Davis Harrell

Mrs. Amy Johnson McLester Mr. H. Donald Sellers

On motion of Senator McCONNELL, the report was ordered printed in the Journal.

MOTION ADOPTED

On motion of Senator LEVENTIS, with unanimous consent, the Senate stood adjourned out of respect to the memory of Mrs. Novie Idell Brown Osteen who passed away on January 5, 2010, at 90 years of age.  Mrs. Osteen had been an active member in her church, both locally and statewide, and helped found the WCG Group of Sumter First Church of God.  She retired from the S.C. Forestry Commission.  Mrs. Osteen was much loved by her family and her extended family of friends, and she will be deeply missed.

ADJOURNMENT

At 11:15 A.M., on motion of Senator JACKSON, the Senate adjourned to meet next Tuesday, January 19, 2010, at 12:00 Noon.

\* \* \*