

NO. 4

JOURNAL
OF THE
SENATE
OF THE
STATE OF SOUTH CAROLINA



REGULAR SESSION BEGINNING TUESDAY, JANUARY 10, 2017

THURSDAY, JANUARY 12, 2017

Thursday, January 12, 2017
(Statewide 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 CROMER. **(This is a Statewide Session day established under the provisions of Senate Rule 1B. Members not having scheduled committee or subcommittee meetings may be in their home districts without effect on their session attendance record.)**

CO-SPONSORS ADDED

The following co-sponsors were added to the respective Bills:

S. 218 Sens. Alexander, Bennett

INTRODUCTION OF BILLS AND RESOLUTIONS

The following were introduced:

S. 250 -- Senators Leatherman, Setzler and Alexander: A BILL TO AMEND SECTION 12-6-40, AS AMENDED, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE APPLICATION OF THE INTERNAL REVENUE CODE TO STATE INCOME TAX LAWS, SO AS TO UPDATE THE REFERENCE TO THE INTERNAL REVENUE CODE TO THE YEAR 2016 AND TO PROVIDE THAT IF THE INTERNAL REVENUE CODE SECTIONS ADOPTED BY THIS STATE ARE EXTENDED, THEN THESE SECTIONS ALSO ARE EXTENDED FOR SOUTH CAROLINA INCOME TAX PURPOSES.

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Read the first time and referred to the Committee on Finance.

S. 251 -- Senator Kimpson: A SENATE RESOLUTION TO EXPRESS THE PROFOUND SORROW OF THE MEMBERS OF THE SOUTH CAROLINA SENATE UPON THE PASSING OF MARCHITTA LORRAINE FRAYER, AND TO EXTEND THEIR DEEPEST SYMPATHY TO HER FAMILY AND MANY FRIENDS.

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The Senate Resolution was adopted.

S. 252 -- Senators Setzler, Young and Massey: A SENATE RESOLUTION TO RECOGNIZE AND HONOR FRELICIA TUCKER

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OF AIKEN AND TO CONGRATULATE HER ON WINNING THE WENDY'S HIGH SCHOOL HEISMAN.

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The Senate Resolution was adopted.

S. 253 -- Senators Setzler and Young: A SENATE RESOLUTION TO EXPRESS THE PROFOUND SORROW OF THE MEMBERS OF THE SOUTH CAROLINA SENATE UPON THE PASSING OF REVEREND EVERETTE CHANDLER, AND TO EXTEND THEIR DEEPEST SYMPATHY TO HIS FAMILY AND MANY FRIENDS.

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The Senate Resolution was adopted.

S. 254 -- Senator Cromer: A BILL TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, SO AS TO ENACT THE "OWN RISK AND SOLVENCY ASSESSMENT ACT" BY ADDING ARTICLE 8 TO CHAPTER 13, TITLE 38 SO AS TO EXPRESS THE PURPOSE OF THIS ACT, TO DEFINE NECESSARY TERMS, TO REQUIRE AN INSURER TO MAINTAIN A RISK MANAGEMENT FRAMEWORK FOR CERTAIN PURPOSES, TO REQUIRE AN INSURER OR INSURANCE GROUP OF WHICH AN INSURER IS A MEMBER TO CONDUCT AN OWN RISK AND SOLVENCY ASSESSMENT (ORSA) ON NO LESS THAN AN ANNUAL BASIS, TO REQUIRE AN INSURER OR INSURANCE GROUP TO SUBMIT AN ORSA REPORT TO THE DIRECTOR OF THE DEPARTMENT OF INSURANCE AND TO DESCRIBE WHAT THE REPORT MUST CONTAIN, TO PROVIDE EXEMPTIONS FROM THE REPORTING PROVISIONS IN CERTAIN CIRCUMSTANCES AND TO ALLOW AN INSURER TO APPLY FOR A WAIVER UNDER CERTAIN CIRCUMSTANCES, TO ESTABLISH THAT THE ORSA REPORT BE PREPARED IN A MANNER CONSISTENT WITH THE ORSA GUIDANCE MANUAL, TO PROVIDE THAT ALL DOCUMENTS, MATERIALS, AND INFORMATION CREATED UNDER THE OWN RISK AND SOLVENCY ASSESSMENT ACT ARE CONFIDENTIAL, TO PROHIBIT THE DIRECTOR OR ANYONE WHO RECEIVES ORSA-RELATED INFORMATION FROM TESTIFYING IN A PRIVATE CIVIL ACTION CONCERNING THE CONFIDENTIAL INFORMATION, TO PERMIT THE DIRECTOR TO TAKE CERTAIN ACTIONS CONCERNING HIS REGULATORY DUTIES, TO PROVIDE A PENALTY FOR AN INSURER WHO FAILS TO FILE THE ORSA SUMMARY REPORT, AND TO SET AN

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EFFECTIVE DATE FOR THE PROVISIONS OF THIS ACT; AND TO AMEND SECTION 38-21-10, AS AMENDED, RELATING TO DEFINED TERMS FOR THE INSURANCE HOLDING COMPANY REGULATORY ACT, SO AS TO DEFINE THE TERM "SUPERVISORY COLLEGE".

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Read the first time and referred to the Committee on Banking and Insurance.

H. 3398 -- Reps. Jefferson, Howard, Gilliard and Neal: A CONCURRENT RESOLUTION TO RAISE THE AWARENESS OF THE BRADLEY BLAKE FOUNDATION SURROUNDING THE ISSUE OF GUN VIOLENCE AND TO DECLARE THE MONTH OF JUNE 2017, "GUN VIOLENCE AWARENESS MONTH".

The Concurrent Resolution was introduced and referred to the Committee on Judiciary.

H. 3400 -- Rep. Cobb-Hunter: A CONCURRENT RESOLUTION TO RECOGNIZE AND HONOR KATHERINE "KATIE" JOHNSON, A SOUTH CAROLINA NATIVE AND FORMER SLAVE WHO LEFT A LEGACY FOR HER DESCENDANTS THAT STILL RESOUNDS AND INSPIRES TODAY.

The Concurrent Resolution was adopted, ordered returned to the House.

H. 3402 -- Reps. Felder, Allison, Arrington, Bennett, Bernstein, Cobb-Hunter, Crawford, Davis, Dillard, Douglas, Erickson, Funderburk, Henderson, Henegan, Knight, Norrell, Parks, Robinson-Simpson and Thayer: A CONCURRENT RESOLUTION TO DECLARE JANUARY 18, 2017, "SC UNITED IN TEAL & WHITE LOBBY DAY" IN SOUTH CAROLINA AND ENCOURAGE ALL CITIZENS TO BE AWARE OF THE NEED FOR EARLY SCREENING FOR CERVICAL CANCER.

The Concurrent Resolution was introduced and referred to the Committee on Medical Affairs.

H. 3454 -- Rep. Taylor: A CONCURRENT RESOLUTION TO CONGRATULATE AND CELEBRATE SOUTH CAROLINA SON CAMDEN RIVIERE FOR HIS IMPRESSIVE ACCOMPLISHMENT OF WINNING THE 2016 REAL TENNIS WORLD CHAMPIONSHIP AND TO WISH HIM WELL IN ALL HIS FUTURE ENDEAVORS.

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The Concurrent Resolution was adopted, ordered returned to the House.

H. 3456 -- Reps. Fry, Henegan, Yow, Crawford, Hewitt, Felder, Hardee, Erickson, Jordan, Jefferson, M. Rivers, Huggins, Ott, Douglas, Bennett, Davis, Lowe and Thayer: A CONCURRENT RESOLUTION TO DECLARE JANUARY 2017 AS "HUMAN TRAFFICKING AWARENESS MONTH" IN SOUTH CAROLINA AND TO ENCOURAGE ALL EFFORTS TO RAISE AWARENESS OF, AND OPPOSITION TO, HUMAN TRAFFICKING IN ALL OF ITS FORMS.

The Concurrent Resolution was introduced and referred to the Committee on Judiciary.

H. 3457 -- Reps. Govan, J. E. Smith, Williams and Yow: A CONCURRENT RESOLUTION TO DECLARE MARCH 6, 2017, THE ANNIVERSARY OF THE DATE OF THE FINAL SIEGE AND FALL OF THE ALAMO FORTRESS IN SAN ANTONIO, TEXAS, AS "ALAMO DAY" IN SOUTH CAROLINA TO HONOR AND REMEMBER THE SEVEN BRAVE SOUTH CAROLINIANS, INCLUDING WILLIAM BARRET TRAVIS AND JAMES BUTLER BONHAM, WHO DIED IN THIS FIGHT FOR FREEDOM AND INDEPENDENCE.

The Concurrent Resolution was introduced and referred to the General Committee.

HOUSE CONCURRENCE

S. 108 -- Senators Campsen, Malloy and Hembree: A CONCURRENT RESOLUTION TO FIX NOON ON WEDNESDAY, FEBRUARY 1, 2017, AS THE TIME TO ELECT A SUCCESSOR TO A CERTAIN JUSTICE OF THE SUPREME COURT, SEAT 5, UPON HIS SWEARING IN AS CHIEF JUSTICE OF THE SUPREME COURT, AND THE SUCCESSOR WILL FILL THE UNEXPIRED TERM OF THAT OFFICE, WHICH WILL EXPIRE JULY 31, 2020; TO ELECT A SUCCESSOR TO A CERTAIN JUDGE OF THE COURT OF APPEALS, SEAT 1, WHOSE TERM WILL EXPIRE JUNE 30, 2017; TO ELECT A SUCCESSOR TO A CERTAIN JUDGE OF THE COURT OF APPEALS, SEAT 2, WHOSE TERM WILL EXPIRE JUNE 30, 2017; TO ELECT A SUCCESSOR TO A CERTAIN JUDGE OF THE COURT OF APPEALS, SEAT 9, UPON HIS ELECTION TO THE COURT OF APPEALS, CHIEF JUDGE, SEAT 5, AND THE SUCCESSOR WILL FILL THE UNEXPIRED

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TERM OF THAT OFFICE WHICH WILL EXPIRE JUNE 30, 2022; TO ELECT A SUCCESSOR TO A CERTAIN JUDGE OF THE CIRCUIT COURT, SEVENTH JUDICIAL CIRCUIT, SEAT 2, UPON HIS RETIREMENT ON OR BEFORE FEBRUARY 10, 2017, AND THE SUCCESSOR WILL FILL THE UNEXPIRED TERM OF THAT OFFICE, WHICH WILL EXPIRE JUNE 30, 2018; TO ELECT A SUCCESSOR TO A CERTAIN JUDGE OF THE CIRCUIT COURT, AT-LARGE, SEAT 1, UPON HIS RETIREMENT ON OR BEFORE DECEMBER 31, 2016, AND THE SUCCESSOR WILL FILL THE UNEXPIRED TERM OF THAT OFFICE WHICH WILL EXPIRE JUNE 30, 2021; TO ELECT A SUCCESSOR TO A CERTAIN JUDGE OF THE FAMILY COURT, EIGHTH JUDICIAL CIRCUIT, SEAT 2, UPON HIS RETIREMENT ON OR BEFORE DECEMBER 31, 2016, AND THE SUCCESSOR WILL FILL THE UNEXPIRED TERM OF THAT OFFICE, WHICH WILL EXPIRE JUNE 30, 2022; TO ELECT A JUDGE TO A NEWLY CREATED SEAT ON THE FAMILY COURT, AT-LARGE, SEAT 7, WHOSE TERM WILL BE FROM JULY 1, 2017, UNTIL JUNE 30, 2023; TO ELECT A JUDGE TO A NEWLY CREATED SEAT ON THE FAMILY COURT, AT-LARGE, SEAT 8, WHOSE TERM WILL BE FROM JULY 1, 2017, UNTIL JUNE 30, 2023; TO ELECT A SUCCESSOR TO A CERTAIN JUDGE OF THE ADMINISTRATIVE LAW COURT, SEAT 2, UPON HIS RETIREMENT ON OR BEFORE JUNE 30, 2017, THE SUCCESSOR WILL FILL A NEW TERM OF THAT OFFICE WHICH WILL EXPIRE ON JUNE 30, 2022.

Returned with concurrence.

Received as information.

THE SENATE PROCEEDED TO A CALL OF THE UNCONTESTED LOCAL AND STATEWIDE CALENDAR.

**READ THE THIRD TIME
SENT TO THE HOUSE**

The following Resolution was read the third time and ordered sent to the House of Representatives:

S. 42 -- Senators Bryant, Gambrell and Hembree: A JOINT RESOLUTION TO PROVIDE THAT THE SCHOOL DAYS MISSED BY STUDENTS ATTENDING TOWNVILLE ELEMENTARY SCHOOL IN ANDERSON COUNTY SCHOOL DISTRICT 4, FOLLOWING THE TRAGIC EVENTS THAT OCCURRED ON SEPTEMBER 28, 2016, ARE EXEMPT FROM THE MAKE-UP

[SJ]

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REQUIREMENT THAT FULL SCHOOL DAYS MISSED DUE TO
DISRUPTIONS BE MADE UP.

REPORT RECEIVED

Judicial Merit Selection Commission

**Report of Candidate Qualifications
for Fall 2016**

Date Draft Report Issued: Thursday, January 12, 2017

Date and Time Final Report Issued: **Noon**, Tuesday January 17, 2017

**Judicial candidates are not free to seek or accept commitments until
Tuesday, January 17, 2017, at Noon.**

Judicial Merit Selection Commission

Rep. G. Murrell Smith Jr. Chairman Erin B. Crawford, Chief Counsel
Sen. George E. "Chip" Campsen III Vice-Chairman Emma Dean, Counsel
Sen. Greg Hembree
Sen. Gerald Malloy
Rep. J. Todd Rutherford
Rep. Peter M. McCoy Jr.
Kristian C. Bell
Michael Hitchcock
Joshua L. Howard
Andrew N. Safran



Post Office Box 142
Columbia, South Carolina 29202
(803) 212-6623

January 12, 2017

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

[SJ]

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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 17, 2017.** Further, 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 17, 2017.** In summary, no member of the General Assembly should, orally or in writing, communicate about a candidate's candidacy until this designated time 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 Erin B. Crawford, Chief Counsel to the Commission, at (803) 212-6689.

Thank you for your attention to this matter.

Sincerely,

Representative Murrell Smith, Jr.

Judicial Merit Selection Commission

Rep. G. Murrell Smith, Jr. Chairman Erin B. Crawford, Chief Counsel
Sen. George E. "Chip" Campsen III Vice-Chairman Emma Dean, Counsel
Sen. Greg Hembree
Sen. Gerald Malloy
Rep. J. Todd Rutherford
Rep. Peter M. McCoy Jr.
Kristian C. Bell
Michael Hitchcock
Joshua L. Howard
Andrew N. Safran



Post Office Box 142
Columbia, South Carolina 29202
(803) 212-6623

THURSDAY, JANUARY 12, 2017

January 12, 2017

Dear Fellow Members of the General Assembly:

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 2016 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 are also 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.

THURSDAY, JANUARY 12, 2017

Should you have any questions regarding this letter or any other matter pertaining to the judicial screening process, please do not hesitate to call Erin B. Crawford, Chief Counsel to the Commission, at (803) 212-6689.

Sincerely,
Representative G. Murrell Smith, Jr.
Chairman

**REPORT FROM THE SOUTH CAROLINA BAR
JUDICIAL QUALIFICATIONS COMMITTEE**

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 on 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

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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 are composed of individuals who are both racially and gender diverse, and who also have a broad range of professional experiences (*i.e.*, lawyers, teachers, businessmen, bankers, and advocates for various organizations). The committees 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 through BallotBox online;
- (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

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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 are 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 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 lengthy, detailed investigatory work and public hearings. The Commission takes its responsibilities seriously, believing 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, which we believe will help you make a more informed decision. **Please note that the candidates' responses included herein are restated verbatim from the documents that the candidates submitted as part of their**

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application to the Judicial Merit Selection Commission. All candidates were informed that the Commission does not revise or alter the candidates' submissions, and thus, any errors or omissions in the information contained in this draft report existed in the original documents that the candidate submitted to the Commission.

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

**SUPREME COURT
QUALIFIED AND NOMINATED**

**The Honorable Diane Schafer Goodstein
Supreme Court, Seat 5**

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 Supreme Court Justice.

Judge Goodstein was born in 1955. She is 61 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 \$75 in campaign expenditures for typing.

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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 continuing legal or judicial education during the past five years as follows:

Conference/CLE Name	Date
(a) 2011 SC Bar Convention	01/20/11;
(b) 2011 SC Association for Justice Annual Convention	08/04/11;
(c) 2011 Annual Judicial Conference	08/17/11;
(d) 2011 Summary Court Judges' Conference	09/07/11;
(e) 2011 Commission on Judicial Conduct Seminar	11/01/11;
(f) The National Judicial College "Theory & Practice of Judicial Leadership: Part 1"	04/23/12;
(g) 2012 SC Circuit Court Judges' Conference	05/02/12;
(h) 2012 SC Annual Judicial Conference	08/22/12;
(i) The National Judicial College "Theory & Practice of Judicial Leadership: Part 2"	09/10/12;
(j) SC Conference on Lawyer and Judicial Discipline	11/07/12;
(k) 2012 SC Defense Trial Attorneys' Association Annual Meeting	11/08/12;
(l) 2013 SC Bar Convention	01/24/13;
(m) 2013 Circuit Court Judges Conference	05/01/13;
(n) 2013 Annual Judicial Conference	08/21/13;
(o) 2013 Commission on CLE and Specialization Seminar	10/30/13;
(p) 2014 SC Bar Convention	01/23/14;
(q) 2014 Circuit Court Judges' Conference	03/24/14;

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- (r) 2014 SC Association for Justice Annual Convention 08/07/14;
- (s) 2014 ABA Annual Meeting 08/10/14;
- (t) 2014 Women Lawyers Association Conference 10/09/14;
- (u) 2014 Commission on CLE and Specialization Seminar 10/29/14;
- (v) 2015 SC Bar Convention 01/22/15;
- (w) SC Circuit Court Judges' Conference 03/09/15;
- (x) 2015 ABA Annual Meeting 07/30/15;
- (y) SC Association for Justice Convention 08/06/15;
- (z) Commission on Judicial/Lawyer Conduct Conference 10/28/15;
- (aa) 2016 SC Bar Convention 01/21/16;
- (bb) 2016 Association of Circuit Court Judges Conference 03/09/16.

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

- (a) Co-Lecturer at 2011 Orientation School for New Magistrates/Municipal Judges 03/25/11;
- (b) Co-Lecturer at 2011 Orientation School for New Magistrates/Municipal Judges 04/01/11;
- (c) Speaker at Dorchester County Courthouse Ceremony and Flag Dedication 05/19/11;
- (d) Co-Lecturer at 2011 Orientation School for New Circuit Court Judges 07/06/11;
- (e) Co-Lecturer at 2011 Orientation Summary Court Judges 07/29/11;
- (f) Lectured at 2011 Summary Court Judges Conference 09/09/11;
- (g) Panelist for Civil Court Judicial Forum "What Civil Court Judges Want to Know" 09/16/11;
- (h) Trial Advocacy Final Trials at Charleston School of Law 11/18/11;
- (i) Co-Lecturer at 2012 Orientation School for New Magistrates 03/16/12;
- (j) Co-Lecturer at 2012 Orientation School for New Circuit Court Judges 07/11/12;

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- (k) Co-Lecturer at 2012 Orientation School for New Magistrates/Municipal Judges 07/27/12;
- (l) Panelist for Civil Court Judicial Forum “Advanced Discovery and Trial Practice” 10/26/12;
- (m) Co-Lecturer at 2013 Orientation School for Magistrates and Municipal Judges 03/29/13;
- (n) Co-Lecturer at 2013 Orientation School for New Circuit Court Judges 07/10/13;
- (o) Co-Lecturer at 2013 Orientation School for Summary Court Judges 08/02/13;
- (p) Panelist for Discovery Practices “Hide and Seek: A Practitioner’s Guide to Ethical and Effective Discovery Practices” 01/15/14;
- (q) Co-Lecturer at 2014 Orientation School for Magistrates and Municipal Judges 03/28/14;
- (r) Co-Lecturer at 2014 Orientation School for New Circuit Court Judges 07/01/14;
- (s) Lawyer Mentoring Program (Anna Richter Welch) 07/14/14;
- (t) Lawyer Mentoring Program (Angel Daniels) 10/02/14;
- (u) Co-Lecturer at 2015 Orientation School for New Circuit Court Judges 07/08/15;
- (v) Lawyer Mentoring Program (Ryan Daniel Templeton) 09/28/15.

Judge Goodstein reported that she has published the following:

- (a) S.C. Appellate Practice Handbook (S.C. Bar CLE 1985)
- (b) Martial Litigation in S.C. Roy T. Stuckey and F. Glenn Smith (S.C. Bar CLE 1997)
- (c) Credibility and Character Evidence History Policy and Procedure
- (d) I have authored materials to assist with my teaching opportunities for the Orientation School for New Circuit Court Judges on the subject of “Running of the Court” however I do not consider them published.

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- (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 disqualifying financial issues.

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 rating by a legal rating organization, Martindale-Hubbell, was AV.

Judge Goodstein reported that she has never held public office other than judicial office.

- (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:

- (a) 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.

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- (b) My private practice was always a general one. However, it progressed from one which primarily was associated with the representation of plaintiffs, 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 the frequency of her court appearances prior to her service on the bench as follows:

- (a) Federal: An average of every 6 months;
(b) State: An average of 5 times monthly.

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

- (a) Civil: 30%;
(b) Criminal: 10%;
(c) Domestic: 40%;
(d) Other: 20%.

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

- (a) Jury: 30%;
(b) Non-jury: 70%.

Judge Goodstein provided that prior to her service on the bench she most often served as chief counsel.

The following is Judge Goodstein's account of her five most significant litigated matters:

- (a) State of South Carolina v. Sammy Lee Amaker, Case number 85-GS-18-00167. This was a high profile death penalty

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case in which I was associate counsel. My law partner was appointed to represent the Defendant. This matter was significant because of the requisite effort required to defend an individual under the pressures of a potential penalty of death.

- (b) Kelly Snowden v. William Fend, Case number 88-CP-18-00053. Our clients' young child had been molested by a neighbor and this civil action in Common Pleas Court was brought to recover damages from the perpetrator. The case was a means for the child's parents to express their outrage. It was significant for two reasons. The victimized child was needed to testify which required great care to procure her testimony without doing her harm. It is also significant because of the amount of the verdict which was \$1,350,000.00 which was substantial for the time. Finally it was tried at a time when civil cases involving sexual assault of children was new.
- (c) Julian W. Rawl, as Administrator of the Estate of Edwin E. Rawl, Jr. v. United States of America, C.A. No. 2:80-2525-2. This matter was litigated non-jury in Federal Court and was a case brought by Julian Rawl whose parents were killed when his father's aircraft crashed. The case is significant because of the complexity of the issues involved. The Plaintiff alleged negligence on the part of the air traffic controller. This matter was defended by U.S. Justice Department, Civil Division, with lead counsel from Washington.
- (d) Tideland Utilities, Inc. and Earl J. DuPriest v. Sunnox, Inc. and Prillaman Chemical Co., Case Number 90-CP-18-00846. This case involved a suit for damages resulting from the explosion of a chlorine canister in the Plaintiff's warehouse. A related case was filed (Tideland Utilities, Inc. and Earl J. DuPriest v. Bitimious Corporation) against the Plaintiff's liability carrier for wrongful failure to pay an insurance claim and breach of the insurance carrier. The case was significant because this single event generated both a products liability action which was fairly complicated and the additional suit highlighting contractual issues with the Plaintiff's insurance carrier.
- (e) State of South Carolina v. Pearlless Owens. In this criminal matter, I was co-counsel in a murder trial which tried to

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conclusion once resulting in a mistrial because of the jury's inability to reach a verdict; mistried a second time due to prosecutorial error; mistried a third time due to a critical witness's emotional breakdown during trial and prior to the fourth trial ended in a workable plea. The case was significant because it was extremely challenging to continue to work with the case so that the defense remained proficient and vibrant and did not become stale. It was also significant because the decedent was a family member which complicated the normally difficult issues in such a case.

The following is Judge Goodstein's account of four civil appeals she has personally handled:

- (a) Gamble, Givens and Moody v. Moise, 288 S.C. 210, 341 S.E.2d 147, 1986
- (b) Henderson v. United States, 785 F.2d 121, (4th Cir.) 1986
- (c) Rawl v. United States, 778 F.2d 1009, (4th Cir.) 1985
- (d) Turner v. City of North Charleston, 675 F. Supp. 314 (DCSC 1987)

The following is Judge Goodstein's account of the criminal appeal she has personally handled:

While I was involved in numerous criminal matters; in the role of prosecutor for the Charleston County Aviation Authority police department and privately as defense counsel there failed to be negative results which necessitated an appeal. The exception to this was the matter of State v. Amaker which was a Capital Case in which I was involved as associate counsel and the jury mistried on the sentence to be imposed; therefore the Court imposed a sentence of life. The appeal for this case was handled by Indigent defense and the conviction and sentence were affirmed.

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

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 for a term July 1, 2004 through June 30, 2009. I was re-elected February, 2010 for a term July 1, 2010 through June 30, 2015. I was re-elected February, 2015 and am currently serving my fourth term. Limitations on jurisdiction

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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.

I was the acting Master in Equity by order of the Chief Justice Toal for a six month period beginning January 1, 2011. These duties were in addition to those as Circuit Court Judge.

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

- (a) State v. Bowman – 366 S.C. 45, 623 S.E.2d 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) The Protestant Episcopal Church in the Diocese of South Carolina et al v. The Episcopal Church (a/k/a The Protestant Episcopal Church in the United States of America); The Episcopal Church in South Carolina – Case No. 13-CP-18-00013. This matter is currently on appeal.
- (c) Mary Louise Fairy v. Exxon – Case No. 1995-CP-37-00118, order denying motion to Reconsider and other relief.
- (d) Aleksey v. State – Case No. 2001-CP-38-00623
- (e) Timothy D. Rogers, Jr. v. State of South Carolina – Case No.: 2000-CP-18-00575; App. Case No. 2011-182846.

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

Master in Equity for Dorchester County January 1, 2011 for approximately six months by order of the Chief Justice Toal. I was responsible for all the duties of a Master in Equity, for example, foreclosure hearings, Master sales, Supplementary hearings.

Judge Goodstein further reported the following regarding unsuccessful candidacies:

I ran for the South Carolina Supreme Court in 2007 and 2008 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.

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(10) Miscellaneous:

The Lowcountry Citizens Committee on Judicial Qualifications found Judge Goodstein to be “Well Qualified” in the evaluative criteria of ethical fitness, professional and academic ability, character, reputation, experience, and judicial temperament, and “Qualified” in the remaining evaluative criteria of constitutional qualifications, physical health, and mental stability. Additionally, the Committee noted that Judge Goodstein had “high energy, a wonderful personality, and would be a terrific justice.”

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 Judicial Delegate 2011, 2014, 2015 and 2016
- (c) Dorchester County Bar Association Secretary
- (d) Circuit Judges Association
- (e) South Carolina Women Lawyers Association

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

- (a) Kahol Kadosh Beth Elohim Sisterhood through the present time.
- (b) American Bar Association 2012 Recipient of the Pursuit of Justice Award.
- (c) 2014 Association of Justice Portrait Recipient.

Judge Goodstein further reported:

In 2012 I was one of 36 Judges selected on a nationwide search to participate in the National Judicial College’s program entitled “Theory and Practice of Judicial Leadership”.

Over the last nearly 10 years I have had the honor to not only teach at the New Judge’s School but to mentor new Judges by having them hold court with me in their first weeks as a Judge. A list of these Judges is as follows:

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The Honorable Deadra Jefferson
The Honorable Michelle Childs
The Honorable Carmen Mullen
The Honorable Benjamin Culbertson
The Honorable Larry Hyman
The Honorable R. Knox McMahon
The Honorable Kristi Harrington
The Honorable Edgar Dickson
The Honorable Rob Stilwell
The Honorable DeAndrea Benjamin
The Honorable D. Craig Brown
The Honorable Stephanie McDonald
The Honorable Maite Murphy
The Honorable Scott Sprouse
The Honorable Letitia Verdin
The Honorable Jocelyn Newman

- (11) Commission Members' Comments:
The Commission noted that Judge Goodstein is an excellent trial judge with a good demeanor and extensive knowledge of the law and process.
- (12) Conclusion:
The Commission found Judge Goodstein qualified and nominated her for election to Supreme Court, Seat 5.

**The Honorable George C. James Jr.
Supreme Court, Seat 5**

Commission's Findings: QUALIFIED AND NOMINATED

- (1) Constitutional Qualifications:
Based on the Commission's investigation, Judge James meets the qualifications prescribed by law for judicial service as a Supreme Court Justice.

Judge James was born in 1960. He is 56 years old and a resident of Sumter, South Carolina. Judge James 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.

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(2) Ethical Fitness:

The Commission's investigation did not reveal any evidence of unethical conduct by Judge James.

Judge James 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 James reported that he has made \$71.44 in campaign expenditures for postage and stationary.

Judge James 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 James 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 James to be intelligent and knowledgeable. His performance on the Commission's practice and procedure questions met expectations.

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

<u>Conference/CLE Name</u>	<u>Date(s)</u>
(a) S.C. Bar Convention, Trial & Appellate Advocacy	1/22/16;
(b) S. C. Bar Convention, Part 2, Criminal Law	1/22/16;
(c) Third Circuit Tips from the Bench	10/2/15;
(d) 2015 Annual Judicial Conference	8/20-8/21/15;
(e) Circuit Judges Conference	3/8-3/10/15;
(f) S.C. Bar Convention, Civil Law Update	1/23/15;

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- (g) S.C. Bar Convention, Part 2, Criminal Law Update 1/23/15;
- (h) Solicitors' Conference (speaker) 9/21/14;
- (i) 2014 Annual Judicial Conference 8/21-8/22/2014;
- (j) S.C. Assn. for Justice 8/7/14;
- (k) S.C. Bar Convention, Torts & Insurance Practice, YLD 1/24/14;
- (l) S.C. Bar Convention, Civil Law Update 1/24/14;
- (m) S.C. Bar Convention, Criminal Law Update 1/24/14;
- (n) SCDTAA Annual Meeting 11/7/13;
- (o) 2013 Annual Judicial Conference 8/22-8/23/13;
- (p) 2013 Circuit Judges Conference 5/1-5/3/13;
- (q) 2013 S.C. Bar Convention, Criminal Law Update 1/25/13;
- (r) 2013 S.C. Bar Convention, Civil Law Update 1/25/13;
- (s) 2012 Annual Judicial Conference 8/23-8/24/12;
- (t) S.C. Assn. for Justice 8/3-8/4/12;
- (u) 2012 Circuit Judges Conference 5/2-5/4/12;
- (v) 2012 S.C. Bar Convention, Civil Law Update 1/20/12;
- (w) 2012 S.C. Bar Convention, Criminal Law Update 1/20/12;
- (x) 2011 Annual Judicial Conference 8/18-8/19/11.

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

- (a) I participated on a judicial panel at the Annual Solicitors' Conference on September 21, 2014.
- (b) I participated on a judicial panel at the Annual Solicitors' Conference on September 23, 2013.
- (c) I participated on a judicial panel sponsored by the National Business Institute entitled "What Civil Court Judges Want You to Know" on September 16, 2011.
- (d) Circuit Judge R. Ferrell Cothran, Jr. and I have spoken to the Third Judicial Circuit solicitors, private attorneys, and public defenders on South Carolina and U.S. Supreme Court case law on traffic stops and Rule 609, SCRE impeachment.
- (e) I was an instructor at the National Judicial College in Reno, Nevada from June 9-12, 2008 in conjunction with its Advanced Evidence course.

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- (f) I was a speaker at an S.C. Bar CLE on October 2, 2015 entitled "Third Circuit Tips from the Bench".
- (g) I was part of a judicial panel at the 2014 S.C. Bar Convention sponsored by the Torts & Insurance Practice/Young Lawyers Division.
- (h) I was a guest judge at the SCDTAA Trial Academy on June 5, 2009, April 19, 2013 and April 25, 2014.

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

(4) Character:

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

The Commission also noted that Judge James 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 James reported that his last available rating by a legal rating organization, Martindale-Hubbell, was AV.

Judge James reported that he has never held public office other than judicial office.

(6) Physical Health:

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

(7) Mental Stability:

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

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(8)

Experience:

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

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

- (a) Richardson, James and Player, 1985-1997
- (b) Richardson and James, 1997-2000
- (c) Lee, Erter, Wilson, James, Holler and Smith, L.L.C., 2000-2006 (election to the Circuit Court bench)

During my years in private practice, I had a very busy trial practice. I handled the defense of personal injury cases in state court. I defended governmental entities and law enforcement officers in 42 U.S.C. §1983 cases and tort cases in state court and federal court. I represented insurance carriers in arson and other insurance fraud cases. I also represented plaintiffs in personal injury cases. I also advised and represented business entities and handled business transactions.

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

- (a) Federal: 30%;
- (b) State: 70%.

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

- (a) Civil: 98%;
- (b) Criminal: 1%;
- (c) Domestic: 1%.

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

The following is Judge James's account of his five most significant litigated matters:

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- (a) Elmore b. Elmore-Hill-McCreight Funeral Home, Inc. I defended a corporation in this case in which the plaintiff, a minority shareholder, alleged oppressive and unfairly prejudicial conduct on the part of the corporation. The plaintiff demanded the court to require the corporation to buy her shares at fair market value. After numerous depositions, the matter was tried nonjury and a decision was rendered in the corporation's favor.
- (b) Heyward v. Christmas, 357 S.C. 202, 593 SE 2d 141 (2004). The plaintiff sued for violation of his civil rights at the hand of our client, a state trooper. The case went to trial in Sumter County and the trial court directed a verdict in the trooper's favor, finding as a matter of law that his conduct was "objectively reasonable" under Fourth Amendment jurisprudence. The Court of Appeals reversed. The supreme Court granted *certiorari* and reversed, finding the trial court was correct.
- (c) Charles v. Hill, et al, 03-CP-21-603 (Florence County Court of Common Pleas). I defended a Florence County assistant public defender, an assistant solicitor, and a Florence County sheriff's investigator in a case in which the plaintiff alleged prosecutorial misconduct, perjury, and malicious prosecution in relation to his convictions for several criminal offenses. Pertinent issues involved service of process by certified mail, relief from default, prosecutorial immunity, and related defenses. All defendants were dismissed on motion for summary judgment.
- (d) At the end of my private practice, I was representing three workers' compensation claimants in occupational disease cases against Yuasa-Exide. Co-Counsel and I worked on these cases from 1998 until I went on the bench in 2006. My former partners took over after I went on the Circuit bench and subsequently represented many more claimants and obtained recovery for most of them. Disputed issues included those pertaining to "last injurious exposure" and medical causation.
- (e) Rudolph Herz v. David Rexroad, et al (United States District Court, Florence Division). I represented a Horry County police officer and two deputies in a claim

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brought pursuant to 42 U.S.C. 1983. The plaintiff was arrested by a highway patrolman for interfering with a traffic stop. He alleged that he was beaten and thrown headlong by deputies into the transport van that arrived to transport him to jail, and he claimed his civil rights were violated in many particulars. This case was tried in late 2005 before the Honorable Terry Wooten and the jury returned a verdict in favor of the defendants.

The following is Judge James's account of five civil appeals he has personally handled:

- (a) Universal Benefits v. James McKinny, 349 SC 179, 561 SE2d 659 (Ct. App. 2002). Decided March 25, 2002.
- (b) Moore v. Sumter County Council, 300 SC 270, 387 SE2d 455 (1990). Decided January 8, 1990.
- (c) Heyward v. Christmas, 357 SC 202, 593 SE2d 141 (2004). Decided March 4, 2004.
- (d) Tiller v. National Health Care, 334 SC 333, 513 SE2d 843 (1999). Decided April 7, 1999.
- (e) Lawson v. Sumter County Sheriff's Office, et al, 339 SC 133, 528 SE2d 86 (Ct. App. 2000). Decided Feb 7, 2000.

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

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

Since July 1, 2006, I have held Seat 2 as a Resident Circuit Court Judge for the Third Judicial Circuit. I was elected by the General Assembly in February 2006 and was re-elected in February 2012. The Circuit Court is a court of general civil and criminal jurisdiction.

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

- (a) Harris Teeter, Inc. v. Moore & Van Allen, PLLC, 390 S.C. 275, 701 S.E.2d 742 (2010). This was a complex legal malpractice action in Charleston County. I granted summary judgment to the defendants on the issue of

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proximate cause, further ruled that the plaintiff's expert witness affidavits were insufficient, and further ruled that the plaintiff failed to establish that the defendants' conduct was negligent. The South Carolina Supreme Court affirmed.

- (b) Rutland v. SCDOT, 390 S.C. 78, 700 S.E. 2d 241 (Ct. App. 2010). In this wrongful death case, an Orangeburg County jury returned a verdict for the plaintiff. Prior to trial, the plaintiff had settled with an automobile manufacturer for certain sums for wrongful death and conscious pain and suffering. I granted SCDOT's post-trial motion to re-allocate the division of the auto manufacturer's payments, the unfortunate effect of which was to render the jury's verdict to be completely set off by the re-allocated payments. The Court of Appeals affirmed.
- (c) Stevens & Wilkinson of South Carolina, Inc. v. City of Columbia, 409 S.C. 568, 762 S.E. 2d 696 (2014). In this Richland County case, two developers and an architectural firm entered into a Memorandum of Understanding with the City of Columbia to develop a publicly-funded hotel for the Columbia Metropolitan Convention Center. The City abandoned the plan and the plaintiffs sued, asserting legal and equitable claims. The city moved for summary judgment and after an exhaustive hearing, I granted summary judgment, finding that the Memorandum of Understanding did not amount to a contract because it was clear the parties knew material terms remained to be agreed upon and there was no meeting of the minds on these material terms. I also ruled that the payments allegedly due to the plaintiffs were contingent upon the city obtaining bond financing, which never took place. I also granted summary judgment on the equity claims. The Court of Appeals reversed, but the Supreme Court reversed the Court of Appeals, thereby reinstating my grant of summary judgment.
- (d) Williams v. GEICO, 409 S.C. 586, 762 S.E. 2d 705 (2014). This was an automobile liability insurance coverage declaratory judgment action. The central issue was whether a "family member step-down provision"

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resulted in coverage being reduced from the stated policy coverage of \$100,000.00 to the then-minimum limits of \$15,000.00. I ruled that even though this was a harsh result, the legislature's enactment of S.C. Code §38-77-140 allowed such a step-down provision. In a 3-2 decision, the Supreme Court reversed, finding that §38-77-142 applied instead. The Court adopted a rule followed in Kentucky that the provision was void as against public policy. The dissent agreed with my assessment that §38-77-140 applied and that §38-77-142 was inapplicable. This decision is important because it settles the law on the validity of these step-down provisions.

- (e) Stokes-Craven Holding Corp. v. Robinson, Opinion No. 27572, May 25, 2016. This was a legal malpractice case in which I granted summary judgment to the defendants on the ground that the three year statute of limitations had expired before suit was commenced. I applied the "discovery rule" as enacted by the legislature and as interpreted in case law up to the time of this opinion. The first opinion issued by the Supreme Court reversed and remanded for reasons not pertinent here; the original opinion was withdrawn and the above opinion has been substituted in its place. The new opinion also reversed my grant of summary judgment, but the Court's original opinion changed substantially, as the new opinion adopted the "remittitur rule" in legal malpractice cases involving underlying cases which were litigated and then appealed. In doing so, the Supreme Court overruled the application of Epstein v. Brown, 363 S.C. 372, 610, S.E. 2d 816 (2005) in these kinds of legal malpractice cases. This case is important because it substantially changes the application of the discovery rule in legal malpractice cases.

Judge James has reported no other employment while serving as a judge.

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(9) Judicial Temperament:

The Commission believes that Judge James's temperament has been, and would continue to be, excellent.

(10) Miscellaneous:

The Pee Dee Citizens Committee on Judicial Qualifications found Judge James to be "Well Qualified" in the evaluative criteria of ethical fitness, professional and academic ability, character, reputation, experience, and judicial temperament, and "Qualified" in the remaining evaluative criteria of constitutional qualifications, physical health, and mental stability. The Committee found that based on the evaluative criteria, Judge James meets and exceeds the requirements in each area.

Judge James is married to Dena Owen James. He has two children.

Judge James reported that he was a member of the following Bar associations and professional associations:

- (a) Sumter County Bar Association, 1985 to the present. I was secretary in the early to mid-1990s.
- (b) South Carolina Bar Association, 1985 to the present.
- (c) American Bar Association, 1985 to the present.
- (d) South Carolina Defense Trial Attorneys Association, 1985-2006. I served on the Executive Committee from 1994 through 1997.

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

- (a) Sunset Country Club
- (b) Sumter Cotillion
- (c) Sumter Assembly (currently president)
- (d) Les Trente
- (e) Thalian Club
- (f) Matthew J. Perry Civility Award, 2009, awarded by the Richland County Bar Association.
- (g) The Citadel Alumni Association
- (h) The Citadel Brigadier Club

Judge James further reported:

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I have thoroughly enjoyed my ten years on the Circuit bench. I have learned a lot about the application of legal principles to complicated factual scenarios. My judicial service, along with my twenty one years of private practice, has prepared me for service on the Supreme Court. I work very hard and I take pride in being thorough and clear in my rulings. I believe I am prepared to serve this State as a member of the Supreme Court.

- (11) Commission Members' Comments:
The Commission commented that Judge James is a fair-minded Circuit Court judge with an exceptional judicial temperament.
- (12) Conclusion:
The Commission found Judge James qualified and nominated him for election to Supreme Court, Seat 5.

**The Honorable R. Keith Kelly
Supreme Court, Seat 5**

Commission's Findings: QUALIFIED AND NOMINATED

- (1) Constitutional Qualifications:
Based on the Commission's investigation, Judge Kelly meets the qualifications prescribed by law for judicial service as a Supreme Court Justice.
- Judge Kelly was born in 1958. He is 58 years old and a resident of Moore, South Carolina. Judge Kelly 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 Kelly.

Judge Kelly demonstrated an understanding of the Canons of Judicial Conduct and other ethical considerations important to

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judges, particularly in the areas of ex parte communications, acceptance of gifts and ordinary hospitality, and recusal.

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

Judge Kelly 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 Kelly 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 Kelly to be intelligent and knowledgeable. His performance on the Commission's practice and procedure questions met expectations.

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

Conference/CLE Name	Date(s)
(a) Lawyer Mentoring Program SCSC	1/1/2016
(b) SCDTAA Annual Meeting SCDTAA	11/5/2015
(c) Annual Judicial Conference SCCA	8/20/2015
(d) Spring Conference & Mandatory JCLE SCCJC	3/9/2015
(e) Lawyer Mentoring Program SCSC	3/5/2015
(f) Criminal Law SC BAR	1/23/2015
(g) Trial & Appellate Advocacy SC BAR	1/23/2015
(h) SCDTAA Annual Meeting SCDTAA	11/6/2014
(i) National Judicial College NJC	10/13-10/23/2014
(j) Annual Judicial Conference SCCA	8/20/2014
(k) SCAJ Annual Convention SCAJ	8/7/2014
(l) Circuit Court Judges Conference SCCJC	3/24/2014
(m) Military & Veterans' Law SC BAR	1/25/2014
(n) Trial & Appellate Advocacy SC BAR	1/24/2014
(o) Criminal Law SC BAR	1/24/2014

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(p) SCDTAA Annual Meeting	SCDTAA	11/7/2013
(q) Public Defender Conference	SCPDA	9/23/2013
(r) Annual Judicial Conference	SCCA	8/21/2013
(s) SCAJ Annual Convention	SCAJ	8/1/2013
(t) Orientation Circuit Judges	SCCA	7/10/2013
(u) Children's Law	SC BAR	1/26/2013
(v) Criminal Law I & II	SC BAR	1/25/2013
(w) Hot Tips Family Law	SC BAR	9/28/2012
(x) Public Defender Conference	SCPDA	9/26/2011

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

- (a) I have made a presentation on Ethics to the SC Association of Criminal Defense Lawyers as a Circuit Judge.
- (b) I have made a presentation on Access to Justice to Circuit Judges.
- (c) I have participated as a Circuit Judge on a Panel answering questions from lawyers.
- (d) I have made presentations to members of the bar at the annual Solicitor's Conference while serving as a member of the SC House Judiciary Committee.
- (e) I have made presentations to members of the bar at the annual Public Defender's Conference while serving as a member of the SC House Judiciary Committee.
- (f) I have made presentations to members of the bar at the annual Public Defender's Conference while serving as a member of the SC Sentencing Oversight Committee.
- (g) I have spoken to school students on career days about law in general and described our court system, both state and federal.
- (h) I taught a class to law enforcement officers on prosecuting DUI cases while I was a lawyer.

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

- (4) Character:
The Commission's investigation of Judge Kelly did not reveal evidence of any founded grievances or criminal allegations made against him. The Commission's investigation of Judge

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Kelly did not indicate any evidence of a troubled financial status. Judge Kelly has handled his financial affairs responsibly.

The Commission also noted that Judge Kelly 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 Kelly reported that his last available rating by a legal rating organization, Martindale-Hubbell, was BV.

Judge Kelly reported the following military service:

16 May 1981 to 16 May 1984, US Army active duty, Honorable Discharge.

17 May 1984 to 29 Aug 1994 US Army Reserve, Honorable Discharge. Captain; no longer serving.

Judge Kelly reported that he has held the following public office: 2006-2010, SC House of Representatives, Representative District 35, elected. All reports were timely filed, no penalty.

(6) Physical Health:

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

(7) Mental Stability:

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

(8) Experience:

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

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

- (a) Brooks Law Associates, Spartanburg, SC 1988-1999; General practice of law including criminal, civil and family law.
- (b) R. Keith Kelly Law Firm, Spartanburg, SC 1999-2001; General practice of law including criminal, civil and family law.

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- (c) Lister, Flynn & Kelly, PA, Spartanburg, SC 2001-2013; General practice of law including criminal, civil and family law.
- (d) SC Judicial Department 2013-present; Circuit Court Judge.

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

- (a) Federal: None;
- (b) State: Weekly, 20 to 25 times per month;
- (c) Other: N/A.

Judge Kelly 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: 40%;
- (c) Domestic: 40%;
- (d) Other: 0%.

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

- (a) Jury: 40%;
- (b) Non-jury: 60%.

Judge Kelly provided that prior to his service on the bench he most often served as sole counsel, except in death penalty cases. I was associated by other lawyers to assist in trial approximately 10%.

The following is Judge Kelly's account of his five most significant litigated matters:

- (a) State v. Moore: death penalty case
- (b) State v. Samples: death penalty case
- (c) State v. Connor: death penalty case
- (d) State v. Brown: death penalty case
- (e) US v. Troy Rolle: interstate drug trafficking case

Judge Kelly reported that he has not personally handled any civil appeals.

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The following is Judge Kelly's account of two criminal appeals he has personally handled:

- (a) State v. Porter Johnson, 396 SC 424, 721 SE2d 786 (SC App., 2012)
- (b) State v. Connor, appeal from Magistrate Court to Circuit Court, Greenville Cty.

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

SC Circuit Court Judge, 2013 to present. Elected by the General Assembly. The jurisdiction of the Circuit Court is defined by Article V, Section 11 of the SC Constitution and Title 14, Chapter 5 of the SC Code of Laws, as amended.

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

- (a) Catawba Indian Nation v. State of South Carolina, 407 S.C. 526, 765 SE2d 900 (2014).
The Indian tribe brought a declaratory judgment action against the state to determine the Effect of the Gambling Cruise Act on certain gambling rights. The Supreme Court held declaratory judgment action was not precluded by collateral estoppel; the action was not precluded by res judicata; but, the Gambling Cruise Act did not authorize the tribe to offer video poker gambling on its reservation. I concurred in the opinion as an Acting Associate Justice.
- (b) West Anderson Water District v. City of Anderson, SC, 2016 WL 3342245 (2016). The Water District brought a declaratory judgment action against the City to determine the proper service provider to supply water service to Michelin's newly constructed facility. The Court affirmed my ruling determining the Water Sale and Purchase Agreement allowed the City to provide service to Michelin, enabling legislation authorized the local governing body to execute contracts extending past its members terms of office and there was no delegation of power by the district.
- (c) As a trial judge, almost all of my work on the bench is with a jury as the finder of facts. Therefore, it is rare that I issue an order or opinion.

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Judge Kelly has reported no other employment while serving as a judge.

Judge Kelly further reported the following regarding unsuccessful candidacies:

1991 SC Senate special election to fill unexpired term of Senator Horace Smith. I lost in the primary to a challenger.

2010 SC House of Representatives, District 35. I lost in the primary to a challenger. 1995 Family Court Judgeship. I withdrew from consideration.

1998 Family Court Judgeship. I withdrew from consideration. 2010 US Magistrate Judge. I was not selected.

(9) Judicial Temperament:

The Commission believes that Judge Kelly's temperament has been, and would continue to be, excellent.

(10) Miscellaneous:

The Upstate Citizens Committee on Judicial Qualifications found Judge Kelly to be "Well Qualified" in the evaluative criteria of ethical fitness, professional and academic ability, character, reputation, experience, and judicial temperament, and "Qualified" in the remaining evaluative criteria of constitutional qualifications, physical health, and mental stability.

Judge Kelly is married to Cynthia Gail Jackson Kelly. He has three children.

Judge Kelly reported that he was a member of the following Bar associations and professional associations:

- (a) South Carolina Bar Association
- (b) South Carolina Circuit Court Judges Association
- (c) Cherokee County Bar Association
- (d) Spartanburg County Bar Association

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

- (a) Emma Gray Memorial United Methodist Church.

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- (b) Woodruff Rotary Club, past president 2011-12, 2012-13.
- (c) Spartanburg Pilot's Association, former board member.
- (d) SC House Republican Caucus
- (e) Woodruff Investment Club

Judge Kelly further reported:

I respectfully submit that my work ethic is one of my strong suits. I worked to pay my way through college and law school. I repaid all student loans timely, and I applied myself to the practice of law and representing clients with the same work ethic. I applied myself and that same work ethic while serving our state as a circuit court judge. And, I will apply that work ethic to cases before the Supreme Court.

- (11) Commission Members' Comments:
The Commission commented that Judge Kelly has an admirable reputation as a practical judge and is an experienced lawyer and jurist, as well as having an excellent judicial temperament.
- (12) Conclusion:
The Commission found Judge Kelly qualified and nominated for election to Supreme Court, Seat 5.

**COURT OF APPEALS
QUALIFIED AND NOMINATED**

**The Honorable Paul Edgar Short Jr.
Court of Appeals, Seat 1**

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 a Court of Appeals judge.

Judge Short was born in 1947. He is 69 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

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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 not made any campaign expenditures.

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 continuing legal or judicial education during the past five years as follows:

<u>Conference/CLE Name</u>	<u>Date(s)</u>
(a) S.C. Bar Conv., Criminal Law Section	1/20-23/11;
(b) S.C. Bar Conv., Trial & Appellate Advocacy Section	1/20-23/11;
(c) S.C. Circuit Court Judges' Conference	5/4/11;
(d) S.C. Assoc. for Justice Annual Meeting	8/4-7/11;
(e) Annual Judicial Conference	8/17-19/11;

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- (f) Southern Region High Court Conference 9/15/11;
- (g) Annual Judicial Conference 8/22-24/12;
- (h) Research Fundamentals on Westlaw 10/24/12;
- (i) S.C. Defense Attorneys Association, Annual Meeting 11/8-11/12;
- (j) S.C. Bar Conv., Trial & Appellate Advocacy Section 1/24-27/13;
- (k) S.C. Bar Conv., Part 2: Criminal Law Section 1/24-27/13;
- (l) An Overview of SC Workers' Compensation Law 4/17/13;
- (m) Annual Judicial Conference 8/21-23/13;
- (n) S.C. Defense Attorneys Association, Annual Meeting 11/7-10/13;
- (o) Annual Judicial Conference 8/20-22/14;
- (p) S.C. Defense Attorney Association, Annual Meeting 11/6-9/14;
- (q) S.C. Bar Conv., Trial and Appellate Advocacy Section 1/22-25/15;
- (r) S.C. Bar Conv., Civil Law Update 1/22-25/15;
- (s) S.C. Bar Conv., Part 2: Criminal Law Section 1/22-25/15;
- (t) All About E-Filing 4/29/15;
- (u) 23rd Annual Forum for State Appellate Court Judges 7/9-12/15;
- (v) Annual Judicial Conference 8/19-21/15;
- (w) S.C. Defense Attorneys Association, Annual Meeting 11/5-8/15.

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

- (a) I have made presentations to Circuit Court Judges about the Court of Appeals at the Circuit Court Judges' Conference;
- (b) I spoke on the topic Case File Development and Review, A View from the Judiciary at the South Carolina Solicitors' Conference;
- (c) I have 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

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discussions four hours each day on a wide variety of legal topics;

- (d) I was an instructor for a Seminar for the 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) Judge Short reported that his last available rating by a legal rating organization 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 in the South Carolina National Guard until 1973; Discharged U.S. Army Reserve 1974; Highest rank attained was Captain; Present status: Honorably Discharged.

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

- (a) South Carolina House of Representatives, Reports timely filed, Elected, 1982-1991;
- (b) Chester County Attorney, Report not required, Appointed, 1980-1982;
- (c) Chester County Airport Commission, Report not required, Appointed, 1978-1980

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- (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:

- (a) Strickland and Hardin, General Practice of Law, 1971;
- (b) Strickland, Hardin, and Short, General Practice of Law, 1972;
- (c) Strickland, Short, and Keels, General Practice of Law, 1974;
- (d) South Carolina Circuit Court At-Large Seat 8, 1991;
- (e) Resident Judge, Sixth Judicial Circuit Court, 1999;
- (f) South Carolina Court of Appeals, 2004

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

- (a) July 1991-February 1999, South Carolina Circuit Court At-Large Seat 8, Elected;
- (b) February 1999-June 2004, Resident Judge Sixth Judicial Circuit Court, Elected;
- (c) July 2004-Present, South Carolina Court of Appeals Seat 1, Elected.

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

- (a) Cannon v. SCDPPS, 361 S.C. 425, 604 S.E.2d 709 (Ct. App. 2004) reversed, 371 S.C. 581, 641 S.E.2d 429 (2007), superseded by statutory amendment, 2008 S.C. Laws Act 413 (finding the DNA Act requires samples from parolees paroled prior to the enactment of the Act but still on parole at the time of the enactment; although reversed by the South Carolina Supreme Court in 2007,

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the Legislature amended the Act in 2008 as interpreted in the Court of Appeals' opinion);

- (b) Gillman v. City of Beaufort, 368 S.C. 24, 627 S.E.2d 746 (Ct. App. 2006) (holding as a matter of first impression that a plaintiff pedestrian could not add the Department of Transportation and the State as indispensable parties after the expiration of the statute of limitations);
- (c) Lukich v. Lukich, 368 S.C. 47, 627 S.E.2d 754 (Ct. App. 2006), affirmed, 379 S.C. 589, 666 S.E.2d 906 (2008) (declaring an annulment voiding a first marriage does not relate back to validate a second marriage);
- (d) In re Manigo, 389 S.C. 96, 697 S.E.2d 629 (Ct. App. 2010), affirmed, 398 S.C. 149, 728 S.E.2d 32 (2012) (holding the provision for civil commitment under the South Carolina Sexually Violent Predator Act does not require a person to be currently serving a sentence for a sexually violent offense);
- (e) Beaufort Cty. Sch. Dist. v. United Nat'l Ins. Co., 392 S.C. 506, 709 S.E.2d 85 (Ct. App. 2011), cert. dismissed, Dec. 20, 2011 (finding the school district's settlement of seven students' sexual molestation claims against one teacher gave rise to seven claims under a sexual abuse and sexual harassment endorsement to the district's commercial general liability policy).

Judge Short has reported no other employment while serving as a judge.

Judge Short further reported the following regarding unsuccessful candidacies:

- (a) I withdrew as a candidate for the South Carolina Court of Appeals Seat 6 on February 4, 2003, after having been selected as one of three candidates nominated by the Judicial Merit Selection Commission.
- (b) I withdrew as a candidate for the Chief Judge of the South Carolina Court of Appeals on approximately January 27, 2010.

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- (9) Judicial Temperament:
The Commission believes that Judge Short's temperament has been, and would continue to be, excellent.
- (10) Miscellaneous:
The Piedmont Citizens Committee on Judicial Qualifications found Judge Short to be "Well Qualified" in the evaluative criteria of ethical fitness, professional and academic ability, character, reputation, experience, and judicial temperament, and "Qualified" in the remaining evaluative criteria of constitutional qualifications, physical health, and mental stability. In comment the Committee stated "Judge Short is one of the most senior members of the Court of Appeals, and his deep experience is evident. He also brings a practicality and common sense to his position for which he received particular praise."

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;
- (d) American Bar Association.

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

- (a) Sertoma International, Life Member;
- (b) Chester Shrine Club;
- (c) Chester Masonic Lodge;
- (d) American Legion;
- (e) Chester Men's Golf Association;
- (f) Chester/Fairfield Citadel Club

Judge Short further reported:

While practicing law, I had the pleasure to serve and to gain valuable experience on the Board of Commissioners on Grievances and Discipline. I am a former Deacon and Elder of Purity Presbyterian Church. I have recently been appointed by the Chief Justice to

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serve on the South Carolina Chief Justice's Commission on the Profession.

(11) Commission Members' Comments:

The Commission appreciates Judge Short's service on the Court of Appeals and knows that he will continue to serve the State's judiciary well.

(12) Conclusion:

The Commission found Judge Short qualified and nominated him for re-election to Court of Appeals, Seat 1.

**The Honorable Harris Bruce Williams
Court of Appeals, Seat 2**

Commission's Findings: QUALIFIED AND NOMINATED

(1) Constitutional Qualifications:

Based on the Commission's investigation, Judge Williams meets the qualifications prescribed by law for judicial service as a Court of Appeals judge.

Judge Williams was born in 1956. He is 60 years old and a resident of Columbia, South Carolina. Judge Williams 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 1982.

(2) Ethical Fitness:

The Commission's investigation did not reveal any evidence of unethical conduct by Judge Williams.

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

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Judge Williams 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 Williams 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 Williams to be intelligent and knowledgeable. His performance on the Commission's practice and procedure questions met expectations.

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

- | <u>Conference/CLE Name</u> | <u>Date(s)</u> |
|--|----------------|
| (a) S.C. Bar, Fifth Circuit Tips from the Bench | 01/08/16; |
| (b) Annual Judicial Conference | 08/10 - 8/15; |
| (c) S.C. Association for Justice, Annual Conference | 8/10 -8/15; |
| (d) S.C. Bar meeting, Part 2: Criminal Law Section | 1/23/15; |
| (e) Charleston County Bar: Advocacy Tips from the Bench | 11/10/15; |
| | 1/25/13; |
| | 1/21/11; |
| | 1/22/10; |
| (f) Family Court Bench Bar | 12/5/14; |
| (g) SC Defense Attorneys Association: Annual Meeting | 11/10–11/15; |
| (h) Birdies, Bogeys, Pars, and Professionalism: What Golf Can Teach Lawyers about Winning with Integrity | 11/6/14; |
| (i) Hot Tips from the Coolest Domestic Law Practitioners | 9/26/14; |
| | 9/25/15; |
| (j) SC Solicitors' Association Annual Conference | 9/26/10; |

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- (k) National Association of Drug Court Professionals 9/21/14;
9/18/15;
7/26/15;
5/28/14;
5/30/12;
5/2010;
- (l) Hot Tips from the Coolest Lawyers 9/28/12;
- (m) Current Issues in the Law 8/12/12;
- (n) National Foundation for Judicial Excellence: Class Actions and Aggregate 7/13/12;
- (o) National Foundation for Judicial Excellence: Applied Science & the Law-21st Century Technology in the Courts 7/15/11;
- (p) National Foundation for Judicial Excellence: Annual Judicial Symposium 7/16/10;
- (q) Southern Region High Court Conference 9/15/11;
- (r) Family Court Judges' Conference 6/1/11;
- (s) Trial & Appellate Advocacy 1/21/11;
3/05/10;
- (t) 4th Amendment for Appellate Judges 3/10/10;
- (u) Guardian Ad Litem Training, Civil Law Update 1/20/10;
1/22/10.

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

- (a) I am an adjunct professor at the University of SC School of Law, teaching Family Law from 2012–present.
- (b) I have lectured at the SC Bar Program “Bridge the Gap” for new lawyers.
- (c) I have given presentations on the topics of appellate advocacy and domestic relations at the annual SC Bar meeting, as well as numerous presentations at SC Bar CLE events.
- (d) I have given presentations in the areas of appellate law and domestic relations for the SC Association for Justice’s annual meetings.
- (e) I have lectured to University of SC School of Law classes related to the following topics: alternative sentencing/drug court, abuse and neglect cases,

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domestic relations, and fundamentals of law practice and professionalism. I have also presented professionalism seminars to first-year students on the courts and civility.

- (f) I have lectured to undergraduate and graduate level classes at the University of SC regarding juvenile crime, drug court, and courtroom procedures in SC.
- (g) I have participated as a group leader in drug court training for new courts in programs sponsored by the National Association of Drug Court Professionals.
- (h) I have given numerous presentations at SC Solicitors' annual conferences concerning juveniles, case law updates, drug court, and civility in the courts. In addition, I have presented at the SC Public Defenders' Conference.
- (i) I have had the opportunity to speak at locally sponsored CLE events on appellate advocacy, abuse and neglect cases, and guardian ad litem training.

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

(4) Character:

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

The Commission also noted that Judge Williams 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.

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- (5) Reputation:
Judge Williams reported that he is not rated by any legal rating organization.

Judge Williams reported that he has never held public office other than judicial office.

- (6) Physical Health:
Judge Williams appears to be physically capable of performing the duties of the office he seeks.

- (7) Mental Stability:
Judge Williams appears to be mentally capable of performing the duties of the office he seeks.

- (8) Experience:
Judge Williams was admitted to the South Carolina Bar in 1982.

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

- | | | |
|-----|--------------|--|
| (a) | 1982–1995 | General practice of law with primary emphasis on family law and personal injury law; |
| (b) | 1982–1991 | Scott, Mathews, and Williams, P.A.; |
| (c) | 1991–1995 | Trotter & Williams, P.A.; |
| (d) | 1991–1995 | Part-time municipal judge for Irmo, SC; |
| (e) | 1995–2004 | Judge, SC Family Court; |
| (f) | 1997–present | Presiding Judge, Richland County Juvenile Drug Court; |
| (g) | 2000–2002 | Presiding Judge, Richland County Adult Drug Court; |
| (h) | 2004–present | Judge, SC Court of Appeals. |

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

- (a) Assistant Town Judge, Irmo, SC - October 1991–June 6, 1995

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Appointed by Town Council. Jurisdiction is limited to magistrate level criminal and traffic offenses. Duties included setting bonds for criminal defendants;

- (b) SC Family Court Judge, Fifth Judicial Circuit, Richland County, Seat 1, June 1995–June, 2004. Elected. Jurisdiction includes, but is not limited to, divorce, adoption, abuse and neglect cases, and juvenile cases; I have also presided over the Richland County Juvenile Drug Court since its inception in 1997;
- (c) SC Court of Appeals, Seat 2, June 2004–present. Elected. Jurisdiction over all appeals, except those reserved by statute to the original jurisdiction of the Supreme Court of SC;
- (d) I was appointed a special Circuit Court Judge to preside over the Richland County Adult Drug Court, (2000-2002), and I continue to preside over the Richland County Juvenile Drug Court as an acting Family Court Judge.

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

- (a) S.C. Dep't of Soc. Servs. v. Truitt, 361 S.C. 272, 603 S.E.2d 867 (Ct. App. 2004);
- (b) State v. Lynch, 375 S.C. 628, 654 S.E.2d 292 (Ct. App. 2007);
- (c) Hackworth v. Greywood at Hammett, LLC, 385 S.C. 110, 682 S.E.2d 871 (Ct. App. 2009);
- (d) Melton v. Medtronic, Inc., 389 S.C. 641, 698 S.E.2d 886 (Ct. App. 2010);
- (e) Miranda C. v. Nissan Motor Co., Ltd., 402 S.C. 577, 741 S.E.2d 34 (Ct. App. 2013).

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

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

Adjunct Professor, Family Law, University of SC School of Law, 2012–present

Supervisor: Jaclyn A. Cherry, Associate Dean for Academic Affairs.

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

(9) Judicial Temperament:

The Commission believes that Judge Williams' temperament has been, and would continue to be, excellent.

(10) Miscellaneous:

The Midlands Citizens Committee on Judicial Qualifications found Judge Williams to be "Well Qualified" in the evaluative criteria of ethical fitness, professional and academic ability, character, reputation, experience, and judicial temperament, and "Qualified" in the remaining evaluative criteria of constitutional qualifications, physical health, and mental stability. The Midlands Citizens Committee further commented that "Judge Williams is the epitome of what we would want an appellate judge to be. His long and distinguished service speaks for itself."

Judge Williams is married to Sharon C. Williams. He has two children.

Judge Williams reported that he was a member of the following Bar associations and professional associations:

- (a) South Carolina Bar, 1982–present;
- (b) Richland County Bar, 1982–present; Family Law Chair, 1993; Family Law Committee, 1991–1993;
- (c) South Carolina Conference of Family Court Judges, 1995–2004; President, 1999–2000; President-Elect, 1998–1999; Secretary-Treasurer, 1997–1998;
- (d) South Carolina Association of Drug Court Professionals; President, 2000–2001; 2008–2014; Board Member, 2006–present;
- (e) John Belton O'Neill Inn of Court, 2007–present;
- (f) American Bar Association, 2010;
- (g) Board Member, National Association for Drug Court Professionals, 7/2015–present.

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

- (a) South Carolina Bar, 1982–present

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- (b) Richland County Bar, 1982-present; Family Law Chair, 1993; Family Law Committee, 1991-1993
- (c) South Carolina Conference of Family Court Judges, 1995-2004; President, 1999-2000; President-Elect, 1998-1999; Secretary-Treasurer, 1997-1998
- (d) South Carolina Association of Drug Court Professionals; President, 2000-2001; 2008-2014; Board Member, 2006-present
- (e) John Belton O'Neill Inn of Court, 2007-present
- (f) American Bar Association, 2010
- (g) Board Member, National Association for Drug Court Professionals, 7/2015-present

Judge Williams further reported:

I assisted in the design and implementation of the Richland County Juvenile Drug Court Program, a comprehensive drug treatment court for juvenile offenders with serious drug problems. I continue to preside over drug court on Monday evenings. We recently celebrated our 19-year anniversary for this program. I am gratified and appreciative of the support and encouragement received from members of the Bar since serving on the Bench. I will continue in my efforts to serve the people of SC to the best of my ability.

My thirteen years of experience as a practicing lawyer, nine years of experience on the Family Court bench, and twelve years of experience on the Court of Appeals has been invaluable.

- (11) Commission Members' Comments:
The Commission appreciates Judge Williams' service on the Court of Appeals and knows that he will continue to serve the State's judiciary well.
- (12) Conclusion:
The Commission found Judge Williams qualified and nominated him for re-election to Court of Appeals, Seat 2.

**Blake Alexander Hewitt
Court of Appeals, Seat 9**

Commission's Findings: QUALIFIED AND NOMINATED

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(1) Constitutional Qualifications:

Based on the Commission's investigation, Mr. Hewitt meets the qualifications to sit on the Court of Appeals.

Mr. Hewitt was born in 1978. He is 38 years old, and a resident of Conway, South Carolina. Mr. Hewitt 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 2005.

(2) Ethical Fitness:

The Commission's investigation did not reveal any evidence of unethical conduct by Mr. Hewitt.

Mr. Hewitt 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. Hewitt reported that he has made \$137.01 in campaign expenditures for envelopes and postage.

Mr. Hewitt 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. Hewitt 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. Hewitt to be intelligent and knowledgeable. His performance on the Commission's practice and procedure questions met expectations.

Mr. Hewitt described his continuing legal education during the past five years as follows:

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<u>Conference/CLE Name</u>	<u>Date</u>
(a) 2016 Prosecution Bootcamp – presenter	03/31/16;
(b) Bridge the Gap – presenter	03/07/16;
(c) SC Lawyer’s Guide to Appellate Practice – presenter	02/16/16;
(d) IWA Annual Convention – presenter	11/12/15;
(e) Bridge the Gap – presenter	08/03/15;
(f) It’s All A Game – presenter	02/20/15;
(g) 2015 Tort Law Update – presenter	02/13/15;
(h) IWA Annual Convention – presenter	11/06/14;
(i) 2014 SCAJ Annual Convention	08/07/14;
(j) 2014 Tort Law Update – presenter	02/27/14;
(k) IWA Annual Convention – presenter	11/07/13;
(l) Annual Free CLE Ethics Seminar	11/01/13;
(m) Introduction to Birth Injury Litigation – presenter	10/18/13;
(n) <u>Gideon</u> at 50: How Far We’ve Come, How Far to Go – presenter	09/20/13;
(o) 2013 SCAJ Annual Convention	08/01/13;
(p) What Every Lawyer Should Know to Enjoy (or Survive) the Practice of Law – presenter	6/21/13;
(q) 2012 SCAJ Annual Convention – presenter	08/02/12;
(r) What Every Lawyer Should Know to Enjoy (or Survive) the Practice of Law – presenter	06/22/12;
(s) Words to the Wise – presenter	11/03/11;
(t) Sporting Clays CLE: Ethics with the Judges	10/13/11;
(u) Fourth Circuit Judicial Conference	06/24/11;
(v) J. Waites Waring and the Dissent	05/19/11;
(w) Sporting Clays CLE: Ethics with the Judges	04/14/11.

Mr. Hewitt reported that he has taught the following law–related courses:

- (a) I lectured on techniques of oral advocacy at the 2016 “Prosecution Bootcamp” for new prosecutors, hosted by the Prosecution Coordination Commission.

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- (b) I presented on the topic of appellate practice at the Bridge the Gap programs in 2015 and 2016.
- (c) I lectured on oral advocacy at the 2016 SC Bar “SC Lawyer’s Guide to Appellate Practice” Program.
- (d) I gave “case law update” presentations to all attendees at the Injured Workers’ Advocates organization’s Annual Conventions in 2011, 2013, 2014, and 2015.
- (e) In 2015, I gave a presentation that dealt with issues surrounding the admission of forensic interviews in criminal sexual conduct cases as part of the SC Bar’s annual “It’s All A Game” seminar.
- (f) I shared presentations on special filing procedures in professional negligence cases as a part of the annual Tort Law Update hosted by the SC Bar in 2014 and 2015.
- (g) I lectured on error preservation and techniques of developing a record for an eventual appeal at the 2013 SC Bar Program “Introduction to Birth Injury Litigation.”
- (h) I was a member of a panel discussion on indigent defense funding at the Charleston School of Law’s symposium celebrating the 50th anniversary of the U.S. Supreme Court’s decision in Gideon v. Wainwright.
- (i) I gave speeches on effective legal writing at a local CLE Program, “What Every Lawyer should know to Enjoy (or Survive) the Practice of Law” in 2012 and 2013.
- (j) I lectured on handling appeals effectively at the South Carolina Association for Justice’s 2012 Annual Convention.

Mr. Hewitt reported that he has participated in the publishing of the following:

- (a) Appellate Practice in South Carolina Jean Hoefer Toal et al. (SC Bar CLE 2016), Editorial Board.

(4) Character:

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

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The Commission also noted that Mr. Hewitt 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. Hewitt reported that he has never sought a rating from Martindale-Hubbell, and he does not actively participate in any professional or social networking services.

Mr. Hewitt reported that he has never held a public office.

(6) Physical Health:

Mr. Hewitt appears to be physically capable of performing the duties of the office he seeks.

(7) Mental Stability:

Mr. Hewitt appears to be mentally capable of performing the duties of the office he seeks.

(8) Experience:

Mr. Hewitt was admitted to the South Carolina Bar in 2005.

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

- (a) From August of 2005 to July of 2008, I served as a judicial law clerk and legislative liaison to the Honorable Jean H. Toal, Chief Justice of the Supreme Court of South Carolina.
- (b) From July of 2008 to August of 2009, I served as a judicial law clerk to the Honorable Joseph F. Anderson, Jr., United States District Judge for the District of South Carolina.
- (c) From August of 2009 until the present time, I have been in private practice with the law firm Bluestein Nichols Thompson & Delgado.

My primary area of practice has been appellate litigation. I have served as lead counsel for over 50 matters in South Carolina's appellate courts and have been consulting counsel on many

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other cases. I have also done trial work, but my trial work is not as extensive as my appellate work.

Mr. Hewitt reported the frequency of his court appearances during the past five years as follows:

- (a) Federal: Approximately 5% of cases.
Very little in-court time.
- (b) State: Regularly. Five to ten oral arguments each year with various other in-court appearances.
- (c) Other: N/A

Mr. Hewitt reported the percentage of his practice involving civil, criminal, and domestic matters during the past five years as follows:

- (a) Civil: 81%;
- (b) Criminal: 11%;
- (c) Domestic: 8%;
- (d) Other: 0%.

Mr. Hewitt reported the percentage of his practice in trial court during the past five years as follows:

- (a) Jury: 6%;
- (b) Non-jury: 94%. (all appellate cases counted as non-jury).

The following is Mr. Hewitt's account of his five most significant litigated matters:

- (a) Marshall v. Dodds, Op. No. 5403 (S.C. Ct. App. filed May 4, 2016) (Shearouse Adv. Sh. No. 18 at 54). This case, which is still pending in the appellate court system, analyzes how the statute of repose for medical malpractice actions applies in the situation where there are multiple breaches of the standard of care over an extensive period of time.
- (b) Rhame v. Charleston County Sch. Dist., 412 S.C. 273, 772 S.E.2d 159 (2015). This case holds that the Workers' Compensation Commission may entertain petitions for rehearing. It overrules

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three previous decisions that had incorrectly suggested otherwise and it brings the comp commission's practice in line with that of other administrative agencies.

- (c) Ranucci v. Crain, 409 S.C. 493, 763 S.E.2d 189 (2014). This case correctly holds that the pre-suit notice of intent statute for medical malpractice cases (section 15-79-125) completely incorporates the affidavit statute from the Frivolous Civil Proceedings Sanctions Act (section 15-36-100), reversing a decision to the contrary by the Court of Appeals.
- (d) Bone v. U.S. Food Service, 404 S.C. 67, 744 S.E.2d 552 (2013). This case resolves a long-standing conflict between the Supreme Court and the Court of Appeals about immediate appealability in administrative cases. This conflict historically resulted in a substantial amount of waste for litigants and for the court system. The rule is not perfect, but Bone correctly forces everyone to examine appealability in administrative cases through the lens of the Administrative Procedures Act.
- (e) Ex Parte Brown, 393 S.C. 214, 711 S.E.2d 899 (2011). This case holds that when an attorney is appointed to represent an indigent defendant, the takings clause of the Constitution requires that the attorney receive reasonable compensation for his services. This was a break from prior precedent. I was deeply honored to represent the South Carolina Bar which filed a brief as a friend of the Court.

The following is Mr. Hewitt's account of five civil appeals that he has personally handled:

- (a) Roddey v. Wal-Mart, 415 S.C. 580, 784 S.E.2d 670 (2016);
- (b) Skipper v. ACE Property & Casualty Ins. Co., 413 S.C. 33, 775 S.E.2d 37 (2015);
- (c) Lewis v. LB Dynasty, 411 S.C. 637, 770 S.E.2d 393 (2015);
- (d) Milliken & Co. v. Morin, 399 S.C. 23, 731 S.E.2d 288 (2012);

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(e) S.C. Farm Bureau Mut. Ins. Co. v. Kennedy, 398 S.C. 604, 730 S.E.2d 862 (2012).

The following is Mr. Hewitt's account of five criminal appeals that he has personally handled:

- (a) State v. Sims, Appellate Case No. 2016-001385 (briefing in process);
- (b) State v. Torrence, Op. No. 2013-UP-152 (S.C. Ct. App. filed Apr. 10, 2013);
- (c) State v. Whitesides, 397 S.C. 313, 725 S.E.2d 487 (2012);
- (d) State v. Jennings, 394 S.C. 473, 716 S.E.2d 91 (2011);
- (e) Ex Parte Brown, 393 S.C. 214, 711 S.E.2d 899 (2011).

(9) Judicial Temperament:

The Commission believes that Mr. Hewitt's temperament would be excellent.

(10) Miscellaneous:

The Pee Dee Citizens Committee on Judicial Qualifications reported that Mr. Hewitt is "Well Qualified" in the evaluative criteria of ethical fitness, character, professional and academic ability, reputation, and judicial temperament, and "Qualified" in the remaining evaluative criteria of constitutional qualifications, physical health, mental stability, and experience.

Mr. Hewitt is married to Emma Catherine Hewitt. He has one child.

Mr. Hewitt reports that he is a member of the following Bar associations and professional associations:

- (a) South Carolina Bar: Trial & Appellate Advocacy Section, Council Member (July 2010 - July 2013); Judicial Qualifications Committee, Committee Member (March 2011 - August 2012); Young Lawyers Division, Long-Range Planning Committee, Committee Member (July 2010 - July 2012); Young Lawyers Division, 15th Circuit Representative (July 2013 - July 2015); Young Lawyers Foundation Board, Board Member (November 2013 - July 2015).
- (b) Horry County Bar Association.

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- (c) South Carolina Supreme Court Historical Society.
- (d) Injured Workers Advocates: Judicial Affairs Committee, Committee Member (March 2010 - present).
- (e) South Carolina Association for Justice: Legislative Steering Committee, Committee Member (November 2010 - present).
- (f) Coastal Inn of Court: Community Service Chair (Jan. 2014 - present).

Mr. Hewitt provided that he is a member of the following civic, charitable, educational, social, or fraternal organizations:

- (a) Waccamaw Sertoma Club, Board Member (July 2013 - present);
- (b) City of Conway Board of Zoning Appeals (April 2013 - present);
- (c) City of Conway Downtown Alive;
- (d) Compleat Lawyer Award (Silver), USC Law School.

Mr. Hewitt further reported:

Any good qualities I possess are the result of the many strong and positive influences in my life. I was blessed to have parents who loved me and invested in me heavily. I was also fortunate to have several people outside of my immediate family show interest in me and help shape my development by serving as mentors. My greatest professional goal has always been to honor these wonderful individuals. I know that any success I experience will be the result of them lifting me on their shoulders.

I have known for some time that I wanted to devote my career to public service. My passion as a lawyer has always been the desire to help the court system be the best that it can be – to treat people decently, to treat everyone's case as important, and to help the court make the right decision for the right reasons. I gravitated towards appellate work because I enjoyed it and because I felt that it provided a platform for fulfilling these goals. On occasions when I realized these goals, I found great satisfaction. When I felt that the system did not act honorably, I experienced deep disappointment and

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frustration. Our court system must be the best that it can be, and this is what drives me as a lawyer. It would be the honor of my professional life to serve the citizens of South Carolina by leveraging my experience and passion for their benefit by serving them as a judge on the Court of Appeals. An appellate court is where I feel I could serve other people and the court system best.

- (11) Commission Members' Comments:
The Commission commented that Mr. Hewitt is an outstanding appellate attorney and made special note of his honesty and integrity.
- (12) Conclusion:
The Commission found Mr. Hewitt qualified, and nominated him for election to Court of Appeals, Seat 9.

**The Honorable David Garrison (Gary) Hill
Court of Appeals, Seat 9**

Commission's Findings: QUALIFIED AND NOMINATED

- (1) Constitutional Qualifications:
Based on the Commission's investigation, Judge Hill meets the qualifications prescribed by law for judicial service as a Court of Appeals judge.
- Judge Hill was born in 1964. He is 52 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 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.

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Judge Hill reported that he has made \$19.69 in campaign expenditures for envelopes.

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 continuing legal or judicial education during the past five years as follows:

March 2016	Circuit Judge's Conference
August 2015	Annual Judicial conference
3/9-11/2015	Circuit Judge's Conference
1/23/2015	SC Bar Annual Meeting Civil & Criminal Law Updates
11/20/2014	SC Ass'n of Counties CLE
9/26/2014	SC Bar Construction Law CLE
7/26/2014	SCDTAA summer Meeting
8/20/2014	Annual judicial conference
4/24/2014	Ethics with the Judges
1/24/2014	Trial and Appellate Advocacy Section Civil Law Update
8/21/2013	2013 Annual Judicial Conference
7/10/2013	2013 Orientation School for New Circuit Court Judges
5/1/2013	Spring Conference CLE
11/7/2013	SCDTAA Annual Meeting

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10/17/2013	Fall Sporting Clays: Ethics with the Judges
05/02/2012	Annual Circuit Court Judges Conference
05/24/2012	Ethics Update
08/02/2012	2012 SCAJ Annual Convention
08/22/2012	2012 Annual Judicial Conference
10/18/2012	Fall Sporting Clays
11/08/2012	SCDTAA Annual Meeting
01/25/2013	Trial & Appellate Advocacy Section
01/25/2013	Part 2: Criminal Law Section
05/04/2011	SC Circuit Court Judges' Conference
07/06/2011	2011 Orientation School for New
08/17/2011	2011 Annual Judicial Conference
09/12/2011	The Fourth Amendment:
10/13/2011	Ethics
01/20/2012	Part 2 Criminal Law Section
01/20/2012	Trial & Appellate Advocacy Section
01/21/2011	Criminal Law Section
01/21/2011	Trial & Appellate Advocacy Section

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

- (a) I have appeared on panels at SC Bar Ethics CLEs.
- (b) I have appeared on panels at the Solicitors' conference.
- (c) I have spoken on trial advocacy at CLEs held at the Southeastern Asbestos Conference.
- (d) I have spoken on Crawford v. Washington and the Confrontation Clause at a conference held by the Greenville Bar, Batson v. Kentucky at a SCAJ conference, Ethics to the SCDTAA Trial Academy, given a caselaw update at a conference sponsored by the Colleton County Bar Association, and spoken to the York County Bar Association.
- (e) As a member of the Circuit Judges Advisory Committee, I have given annual presentations on "Judicial Ethics" and "Inherent Powers of Courts" to the New Judges' Orientation School sponsored by S.C. Court Administration.
- (f) I have taught a January Interim course at Wofford College entitled "The Bill of Rights and Modern Citizenship."

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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.

- (g) "Doing Business with S.C. Local Governments," S.C. Bar CLE, 2001.
- (h) "Construction Contracting for Public Entities," Lorman, 2001.
- (i) "Appellate Advocacy," S.C. Bar 2000.
- (j) "Representing a Public Body," S.C. Bar 1997
- (k) "Freedom of Information Act Update" S.C. Ass'n of counties CLE, 1999.
- (l) I have spoken on the Freedom Information Act to a seminar for employees of the S.C. Department of Revenue and at conferences held by the S.C. Ass'n of Public Service Districts.
- (m) I have spoken on Trial Advocacy to the Construction Law section of the S.C. Bar, the S.C. Ass'n of Counties, and the SCDTAA

Judge Hill reported that he has published the following:

- (a) "Back to the Future: United States v. Jones and the search for Fourth Amendment Coherence," May 2012 South Carolina Lawyer
- (b) "Celebrate the Bill of Rights and act as its Guardian," December 12, 2010 Op-Ed column in The Greenville News (article also published in The State)
- (c) "Celebrate That We're a Nation of Laws, Not Men," May 2, 2008 Op-Ed column in The Greenville News.
- (d) "Lay Witness Opinions," September 2007 South Carolina Lawyer at 34.
- (e) "Rule 30(j), Charlie McCarthy and The Potted Plant," September 2005 South Carolina Lawyer at 26.
- (f) Doing the Public's Business, (2001) (book authored with Leo H. Hill).
- (g) "Recent Changes to the South Carolina Freedom of Information Act," South Carolina Lawyer May/June 1999.

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(h) "The Fourth Amendment, Substance Abuse and Drug Testing in the Public Sector," South Carolina Lawyer, May/June 1997

(i) "Mayhem," 7 S.C. Juris. 213 (1991)

(j) "Direct Criminal Contempt," South Carolina Lawyer, Sept/Oct 1992

From approximately 1994 to 1998 I served on the editorial board of the South Carolina Lawyer magazine published by the S.C. Bar. I served as editor-in-chief for three of these years.

I also published three student Notes in volume 40 of the South Carolina Law Review (1988). These Notes examined recent state supreme court and U.S. Court of Appeals cases dealing with post-conviction relief, the 6th amendment right to counsel, and federal civil procedure.

(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 evidence of disqualifying financial issues. Although his financial condition raised concerns, the Commission was satisfied that those concerns were precipitated by a past event, and are not a continuing situation. The Commission notes that he has the ability to rehabilitate his finances.

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 rating by a legal rating organization, Martindale-Hubbell, was AV, and he was also listed in the Martindale-Hubbell Register of Preeminent Lawyers.

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- (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 late 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. I also handled numerous civil and criminal appeals. We were fortunate to be listed in the Martindale-Hubbell Register of Pre-Eminent Lawyers.

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

- | | | |
|-----|----------|--|
| (a) | Federal: | From 1999-2004, I was appearing in federal court on civil and criminal matters several times each month. |
| (b) | State: | Once or more each week. |
| (c) | Other: | N/A |

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

- | | | |
|-----|-----------|------|
| (a) | Civil: | 65%; |
| (b) | Criminal: | 15%; |
| (c) | Domestic: | 20%; |
| (d) | Other: | 0%. |

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

- (a) Jury: Not more than 10%;
- (b) Non-jury: 90%.

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

The following is Judge Hill's account of his five most significant litigated matters:

- (a) American Heart Association, et al. v. County of Greenville, et al., 331 S.C. 498, 489 S.E.2d 921 (1997).
In this case I represented pro bono the American Heart Association and the American Cancer Society. These two charities were the residuary beneficiaries under the Will of Mrs. Kate Jackson, the widow of Baseball Legend Joseph "Shoeless Joe" Jackson. The charities sought possession and ownership of Mr. Jackson's original Last Will and Testament, on the ground that it was an asset that passed to Mrs. Jackson at her husband's death. The original was extremely valuable, as it contained one of the few known genuine signatures of "Shoeless Joe," who rarely gave autographs. Experts contend that an original "Shoeless Joe" signature is the third most valuable signature in the world, outranked only by that of Martin Luther and Button Gwinnett, a Georgia signer of the Declaration of Independence. The charities wanted to auction the original Will and use the proceeds for medical research.
Although we lost the case, it was significant to me because of the uniqueness of the parties, the subject matter and the legal principles involved.
- (b) United States v. Carnell Sanders. Early in my career I was fortunate to be on a list of qualified attorneys willing to accept appointments to represent indigent defendants in federal court. This gave me a great opportunity to gain valuable experience trying cases in federal court. Around 1993 I represented Mr. Sanders in a bank robbery case. The jury acquitted Mr. Sanders. Judge Joe Anderson has been kind enough to include my

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closing argument in Mr. Sanders' case in his book, The Lost Art: An Advocate's Guide to Effective Closing Argument (S.C. Bar CLE Division 2002).

- (c) Bagherof v. Williams. This was a case alleging breach of a commercial lease and trespass. My client, a franchisee of a national restaurant chain, had been the victim of an overbearing landlord. The case involved interesting issues concerning lost profits and causation.
- (d) SCDOT v. Antonakos. I represented the Landowner in this condemnation case that arose out of construction of the "Southern Connector" toll road in Greenville County. The case was significant because the jury returned a sizeable verdict in favor of the Landowner, and the trial also involved some novel issues under the Eminent Domain Procedures Act, S.C. Code section 28-2-10 et seq.
- (e) In Re: Safety Kleen Litigation. This was a class action case litigated in federal district court for the District of South Carolina. It involved allegations of securities fraud, corporate wrongdoing, and other causes of action on behalf of certain Safety Kleen shareholders. I served as local counsel to one of the lead Plaintiffs.

The following is Judge Hill's account of five civil appeals he has personally handled:

- (a) Poole v. Incentives Unlimited, Inc., 338 S.C. 271, 525 S.E.2d 898 (S.C. Supreme Court June 4, 2001).
This employment law case presented the issue of whether continued at-will employment constitutes sufficient consideration for a covenant not to compete.
- (b) Nedrow v. Pruitt, 336 S.C. 668, 521 S.E.2d 755 (S.C. Court of Appeals September 13, 1999).
This appeal from a jury verdict involved a challenge to the trial court's jury instructions and rulings on the admissibility of impeachment evidence.
- (c) Nalley v. Nalley, 53 F.3d 649 (4th Cir. 1995).
This appeal concerned the appropriate measure of damages for violations of the federal wiretap act.
- (d) Medlock v. 6.18 Acres of Real Property (S.C. Sup. Ct. 1992)

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This arose out of and was the companion case to Medlock v. 1985 Ford F-150, 308 S.C. 68, 417 S.E.2d 85 (1992), which established the right to a jury trial under the civil forfeiture statute, S.C. Code section 44-53-30.

- (e) Bradley v. Cherokee School District, 322 S.C. 181, 470 S.E.2d 570 (S.C. Supreme Court May 2, 1996).

This appeal addressed the constitutionality of Act No. 588 of 1994, specifically whether the Act constituted special legislation, amounted to taxation without representation, and unlawfully delegated taxing power.

The following is Judge Hill's account of five criminal appeals he has personally handled:

- (a) United States v. Holmes, et al., 2002 WL 440225 (4th Cir. 2002).

This appeal raised Bruton issues, and challenged the admissibility of expert testimony and juror conduct.

- (b) State v. Anders, 331 S.C. 474, 503 S.E.2d 443 (S.C. Supreme Court July 20, 1998).

This appeal involved whether a defendant's statement was admissible under the co-conspirator exception to the hearsay rule, SCRE 801, or as a statement against penal interest, SCRE 804.

- (c) State v. Harry, 321 S.C. 273, 468 S.E.2d 76 (S.C. Court of Appeals February 5, 1996).

This appeal raised issues related to circumstantial evidence, impeachment evidence, and severance.

- (d) State v. Thrift, 312 S.C. 282, 440 S.E.2d 341 (S.C. Supreme Court January 17, 1994) (on brief).

This appeal from a State Grand Jury prosecution decided important questions concerning enforceability of plea agreements and immunity from prosecution.

- (e) United States v. Winchester, 993 F.2d 229 (4th Cir. 1993).

This appeal presented the issue of whether the offense of entering a bank with the intent to commit a felony constituted a "crime of violence" sufficient to support a conviction for 18 U.S.C. section 924(c).

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

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Since April 2004, I have been privileged to serve as Resident Circuit Judge for the 13th Judicial Circuit, Seat No. 4.

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

- (a) Cornelius v. Oconee County, 369 S.C. 531, 633 S.E.2d 492 (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, 371 S.C. 99, 637 S.E.2d 320 (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. Jeffrey Motts

I wrote the trial court order granting Mr. Motts' request waiving his right to appeal his death sentence. The supreme court affirmed. State v. Motts, 391 S.C. 635, 707 S.E.2d 804 (2011).

- (d) In Re South Carolina Asbestos Docket

Since 2009 I have been assigned by the supreme court to handle the asbestos trial docket throughout the state, which consists of hundreds of civil lawsuits claiming personal injury due to asbestos exposure. I have written several significant orders in this capacity, involving such issues as product identification, proximate cause, product liability, and the sophisticated user defense.

- (e) In Re ITG Merger Litigation

This case, which I was assigned through the complex case procedure, is a shareholder and derivative class action related to the merger of two Upstate textile companies. The plaintiffs alleged hundreds of millions of dollars in damages. During the pre-trial phase, I wrote opinions dealing with Rule 23 class certification, civil conspiracy, fiduciary duty, discovery, damages and

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numerous other issues arising under both South Carolina and Delaware law.

Judge Hill has reported no other employment while serving as a judge.

Judge Hill further reported the following regarding an unsuccessful candidacy:

In May 2014, I ran for the court of appeals. I was found qualified and nominated. I was the last candidate to withdraw before the election, and Judge Stephanie McDonald was elected without opposition.

(9) Judicial Temperament:

The Commission believes that Judge Hill's temperament has been, and would continue to be, excellent.

(10) Miscellaneous:

The Upstate Citizens Committee on Judicial Qualifications found Judge Hill to be "Well Qualified" in the evaluative criteria of ethical fitness, professional and academic ability, character, reputation, experience, and judicial temperament, and also "Qualified" in the remaining evaluative criteria of constitutional qualifications, physical health, and mental stability.

Judge Hill is divorced. He has three children.

Judge Hill reported that he was a member of the following Bar associations and professional associations:

- (a) S.C. Bar
 - Member House of Delegates, 1997-2004
 - President, Government Law Section, 1999
- (b) Greenville County Bar Association, past Member of Executive Committee
- (c) Haynsworth-Perry Inn of Court, 2012-current

Judge Hill provided that he was not a member of any civic, charitable, educational, social, or fraternal organizations.

Judge Hill further reported:

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I am grateful to this Commission and the Legislature for the faith they placed in me 12 years ago when I was elected a circuit judge, and for their continued confidence in me in re-electing me twice. I have done my level best to contribute to the fair and impartial administration of justice. There is nothing more satisfying than having a positive impact on others, and knowing you made a difference in an important matter in a fellow person's life.

If given the opportunity, I would like to continue to serve the public in our judicial branch. I firmly believe we have the finest justice system in the world, and it is a humbling honor and solemn responsibility to be entrusted with a judicial office.

There is no substitute for experience. As a practicing lawyer and small business owner for nearly 15 years, I understand the work and dedication necessary to achieve success. I also understand how the private sector operates, and the determination required to build a client base. I was also fortunate in helping these clients navigate the legal process from start to finish, in almost every imaginable forum. Not just representing them in trial and appellate courts, but helping them and appearing on their behalf before School Boards, Zoning Boards, DHEC, the Administrative Law Judge Division, Family court, Bankruptcy court, the Workers' Compensation Commission, Summary and Magistrate courts, City councils, and scores of other state and local boards and tribunals. It is only in this way that one attains a concrete understanding of the law where it counts most for most people: at the street level.

This broad perspective has been of enormous benefit to me as a circuit judge. Having now over 12 years' experience on the trial bench has widened the lens of my experience even further, and allowed me to more effectively serve the public.

- (11) Commission Members' Comments:
The Commission commented that Judge Hill has an excellent reputation as an ethical, upright, patient, and capable jurist.

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- (12) Conclusion:
The Commission found Judge Hill qualified and nominated him for election to Court of Appeals, Seat 9.

**The Honorable Alison Renee Lee
Court of Appeals, Seat 9**

Commission's Findings: QUALIFIED AND NOMINATED

- (1) Constitutional Qualifications:
Based on the Commission's investigation, Judge Lee meets the qualifications prescribed by law for judicial service to the Court of Appeals.

Judge Lee was born in 1958. She is 58 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.

- (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 made \$195.05 in campaign expenditures for printing.

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.

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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 continuing legal or judicial education during the past five years as follows:

- | | | |
|-----|---|-----------|
| (a) | S.C. Circuit Judges Conference | 05/05/11; |
| (b) | J. Waite Waring and the Dissent | 05/09/11; |
| (c) | U.S. Fourth Circuit Judicial Conference | 06/24/11; |
| (d) | S.C. Judicial Conference | 08/17/11; |
| (e) | Women Lawyers and Leadership | 10/21/11; |
| (f) | S.C. Bar Trial and Appellate Advocacy (MJCLE) | 01/20/12; |
| (g) | S.C. Bar Criminal Law Part 2 (MJCLE) | 01/20/12; |
| (h) | S.C. Circuit Judges Conference | 05/02/12; |
| (i) | S.C. Association for Justice | 08/02/12; |
| (j) | S.C. Judicial Conference | 08/22/12; |
| (k) | S.C. Defense Trial Attorneys Conference | 11/08/12; |
| (l) | S.C. Bar Trial and Appellate Advocacy (MJCLE) | 01/25/13; |
| (m) | S.C. Bar Criminal Law Part 2 (MJCLE) | 01/25/13; |
| (n) | S.C. Circuit Judges Conference | 05/01/13; |
| (o) | U.S. Fourth Circuit Judicial Conference | 06/27/13; |
| (p) | S.C. Association for Justice | 08/01/13; |
| (q) | S.C. Judicial Conference | 08/21/13; |
| (r) | S.C. Defense Trial Attorneys Conference | 11/07/13; |
| (s) | S.C. Bar Trial and Appellate Advocacy (MJCLE) | 01/24/14; |
| (t) | S.C. Bar Criminal Law Part 2 | 01/24/14; |
| (u) | S.C. Circuit Judge Conference | 03/24/14; |
| (v) | S.C. Association for Justice | 08/07/14; |
| (w) | S.C. Judicial Conference | 08/20/14; |
| (x) | S.C. Black Lawyers Retreat | 09/19/14; |
| (y) | S.C. Bar Trial and Appellate Advocacy (MJCLE) | 01/23/15; |
| (z) | S.C. Bar Criminal Law Part 2 (MJCLE) | 01/23/15; |

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- (aa) S.C. Circuit Judges Conference 03/09/15;
- (bb) S.C. Judicial Conference 08/20/15;
- (cc) Keys to Effective Communication 09/08/15;
- (dd) Hitler's Courts: The Betrayal of the Rule of Law 10/13/15;
- (ee) S.C. Defense Trial Attorneys Conference 11/05/15;
- (ff) Advocacy Tips from the Bench – Charleston Livability Court 11/10/15;
- (gg) S.C. Bar Trial and Appellate Advocacy 01/22/16;
- (hh) S.C. Bar Criminal Law Part 01/22/16;
- (ii) S.C. Circuit Judges Conference 03/09/16.

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

- (a) August 1985, I lectured at a program on settling the family court record on appeal;
- (b) September 1985, I presented on pretrial orders, sanctions and local rules in federal court;
- (c) November 1993, I presented on drafting criminal laws under the Sentencing Classification Act for the attorneys in the Legislative Council;
- (d) May 1996, I lectured on practice before the Administrative Law Judge Division (now the Administrative Law Court) at Bridge the Gap.
- (e) January 1997, I gave an update on practice before the Administrative Law Judge Division.
- (f) March 1997, I lectured on practice before the Administrative Law Judge Division (now the Administrative Law Court) at Bridge the Gap.
- (g) May 1997, I lectured on practice before the Administrative Law Judge Division at Bridge the Gap.
- (h) March 1998, I lectured on practice before the Administrative Law Judge Division at Bridge the Gap.
- (i) March 1998, I presented an update on practice and procedure rules before the Administrative Law Judge Division.
- (j) May 1998, I lectured on practice before the Administrative Law Judge Division at Bridge the Gap.
- (k) May 1998, before the Women Lawyers' CLE, I participated in a panel on "what works and what doesn't".

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- (l) February 2000, I presented on circuit court motions and appeals.
- (m) December 2002, I presented on ethics.
- (n) April 2003, I presented on behalf of the Women Lawyers CLE on the effective use of exhibits at trial.
- (o) October 2004, at the Black Lawyers Retreat I participated in a panel on civility and ethics.
- (p) October 2005, I participated in a panel discussion for the Criminal and Trial Advocacy Section
- (q) September 2006. I participated in a panel discussion for the Black Lawyers CLE on tips from the bench.
- (r) December 2006, I spoke to lawyers with the Municipal Association on ethics.
- (s) March 2015, participated in a panel discussion during the Circuit Judges conference on complex litigation.
- (t) September 2014, I presided over a mock criminal hearing on Stand Your Ground for the Black Lawyers CLE.

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 any legal rating organization.

Judge Lee reported that she has never held public office other than judicial office.

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- (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 – 1983 Judicial Law Clerk, Hon. Isreal M. Augustine, Jr. Louisiana Court of Appeals, Fourth Circuit
- (b) 1983 – 1984 Judicial Law Clerk, Hon. C. Tolbert Goolsby, Jr., South Carolina Court of Appeals
- (c) 1984 – 1989 Associate, McNair Law Firm, PA. General Litigation Defense 1984 to 1986; Corporate Section 1987, Labor and Employment Defense 1987 to 1989.
- (d) 1989 – 1994 Staff Counsel, S.C. Legislative Council, drafted 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, Administrative Law Judge Division, presided over administrative hearings related to insurance, environmental permitting, alcoholic beverage permits, wages, taxes, video poker, bingo, appeals from occupational licensing boards, and hearings on regulations promulgated by certain state agencies.
- (f) 1999 – present S.C. Circuit Court Judge At Large, statewide general jurisdiction court, presiding over trials and hearings in criminal and civil matters, appellate jurisdiction over municipal, magistrate, and probate cases. Previously presided over appeals involving ALC decisions, workers' compensation, state grievance matters, and unemployment compensation until jurisdiction was moved to the Court of Appeals by the legislature. I am also one of eight judges statewide assigned to handle specialized cases in Business Court.

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

- (a) Graham v. Town of Latta, Docket No. 2008-CP-13-00376 and 00377 (S.C. Cir. Court, Dillon Co. 2012), *aff'd*, 2016 WL 1239752 (Ct. App. March 30, 2016). The plaintiffs were homeowners whose property was flooded during a severe rain event. They sued the Town of Latta claiming it failed to properly maintain the sewage and rainwater drainage system. Additionally, the plaintiffs alleged that problems with the pipes led to the overflow in their yard which caused the repeated flooding of the property. They sue claiming negligence, trespass and inverse condemnation. The town raised issue of immunity under the state's Tort Claims Act, which limits liability for a governmental agency. There were numerous motions relating to the immunity and the claims. I granted many of the motions, reserving the claim of negligence for the jury. The jury returned a verdict in favor of the plaintiffs. Both parties appealed. The Court of Appeals affirmed the rulings.
- (b) S.C. Insurance Reserve Fund v. East Richland County Public Service District, et al., Docket No. 2011-CP-40-02096 (S.C. Cir. Court, Richland Co. 2013), *aff'd*, 2016 WL 1125810 (Ct. App. March 23, 2016). This was a declaratory judgment action filed by the Insurance Reserve Fund to determine whether it was required to defend the East Richland County Public Service District in an action filed by Coley Brown claiming trespass, inverse condemnation, and negligence from the operation of a sewer force main and air relief valve which caused offensive odors to be released on his property multiple times a day. The lawsuit required the interpretation of the insurance policy and provisions of the Tort Claims Act. I ruled that the claims were excluded under the policy provisions. The Court of Appeals affirmed the ruling.
- (c) State v. Tony Watson, Docket No. 2010-GS-40-10224 (S.C. Cir. Court, Richland County 2013). Watson was charged with murder for killing his fiancée's abusive ex-husband when he came to Watson's house and after beating Watson in his own yard tried to go inside Watson's house to get the ex-wife. Watson filed a motion to determine his immunity from prosecution under the Protection of

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Persons and Property Act based upon the Castle Doctrine. After an evidentiary hearing, I ruled that he was entitled to immunity from prosecution.

- (d) Chastain v. AnMed Health Foundation, et al., Docket No. 2005-CP-04-02388 (S.C. Cir. Court, Anderson Co. 2008), aff'd, 388 S.C. 170, 694 S.E.2d 541 (S.C. 2010). The plaintiff brought a medical malpractice claim against the charitable hospital and its nurses. The plaintiff had to establish that the nurses were grossly negligent to obtain a verdict against them individually. After hearing the testimony during the course of the week, the jury returned a verdict against the hospital only. The jury specifically found that the nurses were not grossly negligent. The hospital was a charitable organization which, under the statutes, would only be liable up to \$300,000 per occurrence. Based upon post trial arguments, I reduced the verdict to the statutory cap. The plaintiff appealed claiming that there was more than one occurrence and therefore her damages should not have been limited. On appeal, the decision was affirmed.
- (e) Curtis v. South Carolina, Docket No. 99-CP-23-02463 (S.C. Cir. Court, Greenville Co. 2000). Mr. Curtis sought to enjoin the state from enforcing a statute prohibiting the sale of urine in interstate commerce and to declare the statute unconstitutional. I declined to enjoin enforcement of the statute.

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

- (a) 1994 – 1999, elected, Administrative Law Judge, Seat 3
- (b) 1999 – present, elected, Circuit Court Judge At Large, Seat 11

Judge Lee has reported no other employment while serving as a judge.

Judge Lee further reported the following regarding unsuccessful candidacies:

- (a) 1997, Candidate for Circuit Court At Large, Seat 10, qualified and nominated
- (b) 2003, Candidate for Court of Appeals, Seat 6, qualified, not nominated

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- (c) 2004, Candidate for Court of Appeals, Seat 1, qualified, not nominated
- (d) 2008, Candidate for Court of Appeals, Seat 3, qualified and nominated
- (e) 2009, Candidate for Court of Appeals, Seat 5, qualified, not nominated

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

- (a) federal: 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:

- (a) civil: 99%;
- (b) criminal: 0.5% participated in 2-3 cases;
- (c) domestic: 0.5% 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:

- (a) Jury: 100%;
- (b) Non-jury: 0%.

Judge Lee provided that she most often served as associate counsel.

The following is Judge Lee's account of her four most significant litigated matters prior to her election to the bench:

- (a) Atkinson v. Citicorp Acceptance Co. (Federal District Court)
 - case involving Fair Debt Collection Act (then a new federal statute) decided on summary judgment motion.
- (b) McClain v. Westinghouse (Federal District Court) – employment case involving sex discrimination, sexual 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) was charged with murder and allegedly confessed. Jury acquitted.

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- (d) Valerie Smith v. Kroger (Federal District Court) – slander or malicious prosecution case filed as a result of accusations of shoplifting.

Judge Lee reported she did not personally handle any civil or criminal appeals.

(9) Judicial Temperament:

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

(10) Miscellaneous:

The Midlands Citizens Committee on Judicial Qualifications found Judge Lee to be “Well Qualified” in the evaluative criteria of ethical fitness, professional and academic ability, character, reputation, experience, and judicial temperament, and “Qualified” in the remaining evaluative criteria of constitutional qualifications, physical health, and mental stability. The Committee commented: “Judge Lee has the necessary experience, temperament, and intellect to be an outstanding Appeals Court judge. She has served with distinction on the Circuit Court bench for many years. She has vast experience in both criminal and civil law and acts as an appeals judge in matters appealed from summary court.”

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) South Carolina Bar
- (b) South Carolina Women Lawyers Association, Board of Directors, 2010-2015
- (c) South Carolina Black Lawyers Association
- (d) Richland County Bar Association
- (e) National Conference of State Trial Judges
- (f) American Bar Association
- (g) American College of Business Court Judges
- (h) John Belton O’Neill Inn of Court
- (i) S.C. Supreme Court Commission on Continuing Legal Education and Specialization, 2011-2016

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

- (a) Columbia (SC) Chapter, The Links, Incorporated, President 2013-2014, Vice President 2012-2013
- (b) Columbia City Ballet, Board of Directors, 2009-2016 (no longer a member)
- (c) Historic Columbia, Board of Directors, 2015 to present
- (d) Alpha Kappa Alpha Sorority, Inc.
- (e) Columbia Chapter, Moles, Inc.
- (f) St. Peters Catholic Church, Finance Committee

(11) Commission Members' Comments:

The Commission commented that Judge Lee has a broad range of experience and a patient, judicial demeanor.

(12) Conclusion:

The Commission found Judge Lee qualified and nominated Judge Lee for election to Court of Appeals, Seat 9.

**CIRCUIT COURT
QUALIFIED AND NOMINATED**

**Grace Gilchrist Knie
Circuit Court, Seventh Judicial Circuit, Seat 2**

Commission's Findings: QUALIFIED AND NOMINATED

(1) Constitutional Qualifications:

Based on the Commission's investigation, Ms. Knie meets the qualifications prescribed by law for judicial service as a Circuit Court judge.

Ms. Knie was born in 1964. She is 52 years old and a resident of Campobello, South Carolina. Ms. Knie 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:

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The Commission's investigation did not reveal any evidence of unethical conduct by Ms. Knie.

Ms. Knie 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. Knie reported that she has made \$48.68 in campaign expenditures for a name tag, thank you notes from personal stationery, and postage.

Ms. Knie 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. Knie 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. Knie to be intelligent and knowledgeable. Her performance on the Commission's practice and procedure questions met expectations.

Ms. Knie described her continuing legal or judicial education during the past five years as follows:

- (a) NOSSCR Social Security Disability Law
05/12/10
- (b) SCAJ 2010 Annual Convention
08/05/10
- (c) SCAJ 2010 Auto Torts 12/03/10
- (d) NOSSCR Social Security Disability Law
05/11/11
- (e) SCAJ Auto Torts XXXIV
12/02/11

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- (f) SCWLA Lawyer's Epidemic
01/04/13
- (g) SCWLA 2012 Ethics and Discipline Update
01/04/13
- (h) SCAJ 2013 Annual Convention
08/01/13
- (i) SCAJ 2013 Auto Torts XXXVI
Seminar 12/06/13
- (j) SC Bar Rainmaking Bootcamp for Attorneys
11/21/14
- (k) SCAJ 2015 Auto Torts XXXVIII
12/04/15
- (l) SC Bar SC Bar Convention
01/21/16
- (m) Greenville Bar Year End CLE
02/12/16
- (n) SCWLA 2015 Ethics and Discipline
Update 02/18/16
- (o) SCWLA Taking Care of Business
03/18/16
- (p) Sptbg Bar/Wofford Executive Power and
Terrorism 03/28/16
- (q) SC-CWP Concealed Weapons Permit
04/22/16
- (r) SCWLA Pathway to Judgeship in SC
06/09/16

Ms. Knie reported that she has taught the following law-related courses:

- (a) I have lectured at the 2002 SCAJ Annual Convention, to the Family Law Section on the subject Family Court Visitation and Custody Issues (Excluding Patel) ;
- (b) I have lectured at the 2003 SCAJ Annual Convention, to the Family Law Section, on the subject What Family Court Judges Want at Temporary Hearings;
- (c) I have lectured at the 2004 SCAJ Annual Convention, to the Family Law Section on the subject Family Law- Case Law Update, September 2003 -July 2004;
- (d) I have lectured at the 2005 SCAJ Annual Convention, to the Family Law Section on the subject Family Law- Case Law Update, September 2004 -July 2005;

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- (e) In 2007 I chaired the Family Law Section of the SCAJ and enlisted speakers for the CLE presentation. I presided over and moderated the Family Law presentation at the 2007 Annual Convention.

Ms. Knie reported that she has not published any books or articles.

(4) Character:

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

The Commission also noted that Ms. Knie 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. Knie reported that her rating by a legal rating organization, Martindale-Hubbell, is AV Preeminent.

(6) Physical Health:

Ms. Knie appears to be physically capable of performing the duties of the office she seeks.

(7) Mental Stability:

Ms. Knie appears to be mentally capable of performing the duties of the office she seeks.

(8) Experience:

Ms. Knie was admitted to the South Carolina Bar in 1989.

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

- (a) Kermit S. King, Attorney, Columbia, South Carolina,
Clerkship August, 1988-June, 1989;
Upon graduating from law school in the Summer of
1989, while studying to take the Bar Exam in August, I

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continued to work for Kermit S. King, Attorney at Law, Columbia. Mr. King's practice primarily focused on divorce or domestic litigation. My job responsibilities were to research aspects of the law as instructed, to assist in organizing files and accompanying him and other lawyers in the firm to court, when necessary. In addition, I performed general clerkship duties. The position ended at the conclusion of the Bar Exam preparation and upon my taking a position as Clerk to The Honorable James B. Stephen, Circuit Court Judge.

- (b) Honorable James B. Stephen, Circuit Court Judge, Spartanburg, South Carolina, Law Clerk, August, 1989-August, 1990;

I obtained the position of Law Clerk to The Honorable James B. Stephen, Circuit Court Judge for the 7th Judicial Circuit, Spartanburg, SC in August 1989. I had the opportunity to shadow Judge Stephen in his court room and in his office for one year. I traveled with him while he rotated throughout the state when he held court in Beaufort, Charleston, Columbia, Aiken, Cherokee, Spartanburg and other counties and had a unique and distinct career opportunity which was priceless in gaining valuable experience and insight into the practice of law. During that year, I sat beside Judge Stephen on the bench, in the courtroom on a daily basis and was able to observe first hand General Sessions Court and Common Pleas Court. He had me research legal issues, assist in writing decisions, and also had me serve as the conduit of information between he and counsel appearing before him concerning decisions, calendaring, and scheduling.

- (c) Bruce Foster, P.A., Spartanburg, South Carolina, Associate, 1990-1992;

In August of 1990 I became an associate of Bruce Foster, P.A., in Spartanburg. The practice was a general litigation practice with focus on domestic litigation, and plaintiff's personal injury. As an associate attorney, I initially served as co-counsel with Mr. Foster in on-going, pending litigation and then accumulating my own clients and represented them in both family court, civil litigation, and some criminal defense, as well as, employment discrimination and sexual harassment litigation. At the conclusion of two years, I continued to share office space with Mr. Foster, but formed my own firm as Grace Gilchrist Dunbar, P.A.

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(d) Grace Gilchrist Dunbar, PA , Spartanburg, South Carolina,

Attorney, 1992-2004;

1992 through 2004, I had a general litigation practice handling domestic litigation, plaintiff's personal injury, workers' compensation, employment discrimination and criminal defense work. During this time, Mr. Foster's health began to deteriorate and he retired. I purchased and renovated an office building in Spartanburg and moved my practice to a location approximately one block from Mr. Foster's office.

(e) City of Spartanburg, Spartanburg, South Carolina,

City Prosecutor, 1995-2010; part-time position;

In 1995, I took the position as the City Prosecutor for the City of Spartanburg. I held this position until 2010. It was part-time. My job responsibilities included the prosecution of all criminal jury trials for the City of Spartanburg. These cases ranged from minor traffic citations to Criminal Domestic Violence and Driving Under the Influence 1st Offense and Driving Under Suspension. There were multi-day terms of Court on a monthly basis. I dealt with attorneys representing defendants, as well as, pro-se litigants on a regular basis. Additionally, I served as legal counsel at City Council meetings when the City Attorney could not be present. I handled the majority of the appeals from the Spartanburg City Municipal Court to the Circuit Court.

(f) Grace Gilchrist Knie, PA , Spartanburg, South Carolina,

Attorney, 2004 - present.

In 2004, although the nature of my practice remained the same, after my marriage, I changed the name of my law practice and professional association to Grace Gilchrist Knie, P.A. Approximately 6-8 years ago I transitioned the nature of my firm from contested domestic litigation to Social Security disability in addition to personal injury.

Ms. Knie further reported regarding her experience with the Circuit Court practice area:

Criminal Trial Experience:

- My first exposure to criminal law was serving as a Law Clerk to the Honorable James B. Stephen, Circuit Judge. My experience included observing guilty pleas, jury trials,

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researching for Judge Stephen criminal law issues and evidentiary issues which would arise during trials. Shortly after joining Bruce Foster, PA, I was asked to assist Mr. Foster and his co-counsel, Reese Joye, in a high profile Felony DUI case which involved numerous pretrial motions and ultimately the Defendant was found not guilty. During my tenure with Mr. Foster, I handled, either solely or as co-counsel, General Sessions, Magistrate, and Municipal court matters.

- In 1995, I was appointed to the position of City Prosecutor for the City of Spartanburg to primarily handle the prosecution of jury trials in that court. I handled hundreds of cases annually, which included a variety of cases. The largest volume of which were DUI's and CDV's, as well as a wide variety of traffic offenses, many of which involved motor vehicle collisions. My responsibilities included scheduling sessions of court, maintaining docket control, interviewing police officers, victims and other witnesses in preparation for trial, and generally working with the Municipal Court Judge to effectively manage the volume of cases before the court. I remained in this capacity for fifteen years. During that same period of time I handled criminal cases in the County system most of which were defending or prosecuting Criminal Domestic Violence cases.

- During the course of handling criminal matters, both for the prosecution and defense, I have handled Miranda challenges, suppression of evidence issues, numerous unique evidentiary questions, jury selection, and jury charge issues. In the last five years I have shifted the focus of my practice to a civil practice, and have only handled a few criminal matters during that time.

Civil Litigation Experience:

- While my practice has always included some civil litigation, as stated elsewhere herein, I began to concentrate more on civil litigation in the past ten years. I handled numerous employment law cases involving sexual harassment in the work place and employment termination. In addition, I have handled a variety of personal injury cases representing plaintiffs, including motor vehicle collisions and premises liability injuries. I also recently, successfully, handled a significant medical malpractice case involving a death. In addition, over the past ten years I have handled numerous worker's compensation claims, Social Security disability claims, post conviction relief

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hearings and appeals. Finally, I have twenty-seven years experience practicing in family court, including numerous high profile cases involving various areas of domestic litigation. A family court practice requires an attorney to have knowledge in contracts, real estate, torts, tax, criminal law, and business law.

- The significance of my experience in the civil and family arena is that it has prepared me to handle a wide range of evidentiary and substantive law issues that will arise before me as a Circuit Court judge.

- No applicant for a judgeship will have been exposed to virtually every possible type of lawsuit or criminal activity to which he or she would have been confronted as a judge, but I believe that the width and breadth of my litigation background over twenty-seven years has given me the courtroom experience and research skills necessary to handle virtually any type of matter over which I might be asked to preside.

Ms. Knie reported the frequency of her court appearances during the past five years as follows:

- (a) federal: Several times a month;
- (b) state: Several times a month.

Ms. Knie reported the percentage of her practice involving civil, criminal, and domestic matters during the past five years as follows:

- (a) civil: Personal Injury /Workers Compensation 40%
- (b) criminal: Defense 2 %
- (c) domestic: 8%
- (d) other: Social Security Disability 50%; City Prosecutor of criminal jury trials approximately four days a month as a part-time position from 1995-2010.

Ms. Knie reported the percentage of her practice in trial court during the past five years as follows:

- (a) jury: 5% jury in the last five years and 40% jury from 1995-2010 due to my serving as the City Prosecutor for jury trials at the City of Spartanburg Municipal Court for that period;
- (b) non-jury: 95% non-jury in the last five years and 60% non-jury from 1995-2010 due to my serving as the City

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Prosecutor for jury trials at the City of Spartanburg Municipal Court for that period.

Ms. Knie provided that she most often served as sole counsel.

The following is Ms. Knie's account of her five most significant litigated matters:

- (a) Laura B. Steagall v. Freightliner L.L.C., et. al, CA 2007-CP-11-655 later removed to federal court 7:07-cv-03877. This lawsuit involved the alleged sexual harassment of the plaintiff by a supervisor at Freightliner. It was somewhat unique because the plaintiff was actually employed by a staffing company which actually supplied the plaintiff to Freightliner. Issues arose as to whether Freightliner fell within Title VII because the plaintiff and her alleged assailant did not work for the same company. There were also reporting and notice issues. In addition, her assailant allegedly harassed her both at work and after hours at her home and elsewhere.

The complaint included alleged causes of action for a hostile work environment (Title VII), sexual harassment (Title VII), retaliatory discharge, negligent supervision and retention, and assault and battery. While this was removed to federal court due to diversity issues, state court enjoys concurrent jurisdiction with the federal system and, therefore, these cases are also routinely tried in the state system. Additionally, the causes of action for negligent supervision and retention, and for assault and battery, are state causes of action.

Many practitioners have not been exposed to this area of the law, however, I have handled at least five other such lawsuits during my years of practice. It is important as a state court jurist to have some knowledge of federal statutory law as it can apply to state proceedings in a number of different areas.

- (b) Gumaro Gonzalez-Bravo v. Krishna Patel Kandel, d/b/a Citgo Food Mart; WCC File No. 0918192

In this tragic circumstance and case, Mr. Bravo was working at the Citgo Food Mart located in Spartanburg, South Carolina in the capacity of stocker and clean up

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personnel. He had been working at the Citgo Food Mart for less than a month and, on the night of September 30, 2009, he and one of the co-owners of the food mart were the only two persons working. Mr. Bravo was in the back stock room, sweeping the floor. The food mart was robbed and both Mr. Bravo and the co-owner were killed. Mr. Bravo had moved to the United States, from Mexico. He was earning \$5.00 per hour, which he was paid in cash at the time of his death. I view this case as one of the most significant litigated matters that I have handled in my twenty-seven years of practicing law for several reasons. The unique issues involved in the case included whether the store owner was a statutory employer pursuant to S.C. law and if Mr. Bravo was actually an employee of the food mart and, if so, if death benefits were payable, what was his average weekly wage and compensation rate, and who were Mr. Bravo's dependents pursuant to S.C. law. In this case, the owner of the store did not have workers' compensation insurance and the argument was that he was not required to have workers' compensation insurance because he did not have the minimum number of employees required of him to mandate carrying workers' compensation insurance. I was successful in proving that there were more than the minimum number of employees employed and in the end I was also successful in proving that the decedent's family was entitled to 500 weeks of benefits. This case involved contact with the Probate Court in Spartanburg County, documents from the Spartanburg County Coroner's Office, witnesses and documents from the Spartanburg County Sheriff's Office, and obtaining documents from the S.C. Department of Revenue. I felt a deep commitment and obligation to represent the interests of this deceased party for the financial benefit of his wife and children, and to honor his senseless murder.

- (c) Helen Owens v. Freddy Lee Johnson, 2014-CP-30-185. This lawsuit involved a serious motor vehicle collision in which the plaintiff suffered a fractured femur which required multiple surgeries. The plaintiff was traveling to work early in the morning when the defendant, a third

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shift employee of BMW Manufacturing, traveling in the opposite direction on a two lane road, fell asleep and crossed the center line hitting the plaintiff's vehicle head on. Early on, an issue arose as to whether the plaintiff had crossed the center line because of tread marks just left of center in the direction in which plaintiff was traveling. I employed an accident reconstruction expert who established that the tread marks were from a different vehicle than that of the plaintiff's. The defendant driver leased the BMW which he was driving from his employer, and BMW had one million dollars in liability coverage on the vehicle. The vehicle also had an emergency response system which detected that there had been a collision and a dispatcher engaged the defendant driver in a conversation. I subpoenaed the recording of that conversation which revealed that the driver had fallen asleep at the wheel and did not even realize that the collision involved another vehicle. The combination of the expert witness and the recording of the defendant's conversation with the emergency response dispatcher were sufficient to overcome liability concerns.

Ultimately, I was able to secure a significant confidential settlement at mediation. This case is significant because it involved an expert witness and the role of scientific evidence.

- (d) Joseph Brown as PR of the Estate of Lillie Ruth Brown v. Spartanburg Urology Surgery Center Partners, L.P., et. al., CA 2015-CP-42-867.

In this tragic, but interesting case, I was hired by Mr. Brown whose wife, in otherwise perfect health, had elected to undergo outpatient carpal tunnel release surgery. Within fifteen minutes of her otherwise successful surgery, she went into cardiac arrest. Efforts to revive her at the for profit outpatient surgery center were unsuccessful and she was transferred to Spartanburg Medical Center which was ironically across the street. Although she was ultimately revived, she had suffered irreversible brain damage. She remained at the hospital, and later at hospice, in a

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vegetative state for more than a month before she passed away.

It was established through expert witnesses that her cardiac arrest resulted from the improper and untimely release of the tourniquet used in conjunction with her local anesthesia. Moreover, the outpatient surgery center was not equipped with the proper "crash cart" to deal with this type of event.

The case had a number of challenging legal issues to sort through; among them being the relationship of the surgery center, the surgeons who also owned the surgery center, the anesthesia group which supplied the nurse anesthetist, and the R.N. who released the tourniquet. In addition, the Non-Economic Damages Act of 2005 came into play in determining the amount of potential non-economic damages allowable. I took the position that Mr. Brown could recover \$425,000 in non-economic damages in the wrongful death, survival, and loss of consortium actions, plus the economic damages suffered which were substantial. After significant discovery and mediation, the case was ultimately settled for a confidential seven figure amount.

The significance of having handled this case for a judicial candidate is that it required a working knowledge of the statutory and common law surrounding medical malpractice cases, including the caps. This body of law is very specific and unique. While mediation has greatly reduced the number of civil cases actually tried, medical malpractice cases continue to be tried on a regular basis and a jurist must be aware of the nuances of this area of the law.

- (e) Tinsley v. Tinsley, 326 S.C. 374, 483 S.E. 2d 198 (Ct. App. 1997)

This family court action involved issues of divorce on the fault ground of physical cruelty, custody, visitation, and equitable distribution of assets and debts. I represented the Wife. The primary issue presented was whether Husband's South Carolina State Disability Retirement Benefits were property and, therefore, a marital asset to be divided in equitable distribution, or

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rather those benefits were income. On appeal, the Court of Appeals held that the payments were replacement for current and future income and, therefore, not subject to equitable distribution. The case is significant because it is often cited by attorneys in the course of litigation and referred to in trial argument on the income versus asset issue.

The following is Ms. Knie's account of five civil appeals she has personally handled:

- (a) Stoney G. Allison v. State, Appellate Case No. 2006-035039; *
- (b) Hazell Stoudemire, III v. State, Appellate Case No. 2014-000784;*
- (c) Stephens v. Integrated Electrical Services, et.al., SCWCC #0915846;
- (d) Blanton v. Blanton, 2007 -UP-129 (S.C. Ct. App.);
- (e) Siegfried v. SSA, xxx-xx-xxxx;

* Both of these cases are criminal cases in which the criminal defendant petitioned the SC Circuit Court for post conviction relief (PCR). PCR actions are considered civil in nature. I represented both in the PCR actions and then filed the appeals to the SC Supreme Court.

The following is Ms. Knie's account of criminal appeals she has personally handled:

As the City Prosecutor at the City of Spartanburg from 1995-2010, in addition to prosecuting all jury trials, I routinely handled the City of Spartanburg Municipal Court appeals to the Circuit Court of the Seventh Judicial Circuit. These cases normally involved the appeal of Criminal Domestic Violence Charges, Driving Under the Influence, other traffic violations, and other municipal level offenses.

(9) Judicial Temperament:

The Commission believes that Ms. Knie's temperament would be excellent.

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(10) Miscellaneous:

The Upstate Citizens Committee on Judicial Qualifications found Ms. Knie to be “Well Qualified” in the evaluative criteria of ethical fitness, professional and academic ability, character, reputation, experience, and judicial temperament, and “Qualified” in the remaining evaluative criteria of constitutional qualifications, physical health, and mental stability. The Committee found that based on the evaluative criteria, Ms. Knie meets and exceeds requirements in each area.

Ms. Knie is married to Patrick Eugene Knie. She has two stepchildren.

Ms. Knie reported that she was a member of the following Bar associations and professional associations:

- (a) Spartanburg County Bar Association;
President, 2012; Vice President, 2011; Executive Committee member, 2009 -2013;
Chairperson, Spartanburg County Bar's Cinderella Prom Dress Project 2008-2013;
- (b) South Carolina Legal Services, Board Member, August, 2014- Present;
- (c) SC Bar Association 1989 - Present;
Member, Judicial Qualifications Committee 2012 - January, 2016;
Member, Solo and Small Firm Section
- (d) SC Women Lawyer's Association (SCWLA)
- (e) SC Association for Justice (SCAJ)
Family Court Section Chair/Board Member 2007;
- (f) National Organization of Social Security Claimants Representatives (NOSSCR);
- (g) American Bar Association;
- (h) Greenville Bar Association;

Ms. Knie provided that she was a member of the following civic, charitable, educational, social, or fraternal organizations:

- (a) Upstate Forever;
- (b) First Presbyterian Church;
- (c) The YMCA;
- (d) Spartanburg Soup Kitchen - Volunteer
- (e) Angel's Charge Ministry -Volunteer

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- (e) The Piedmont Club

Ms. Knie further reported:

As a young person, it was always my goal to complete college and law school. Out of necessity in order to pay the tuition and the necessary costs involved, I worked multiple jobs at the same time while attending school and was able to pay my way through undergraduate school and law school. I believe that I have a strong work ethic that has carried over to my professional practice. I have always been willing to put in the long hours necessary to be fully prepared in every case which I handle. If I am to serve as a circuit court judge I will bring that work ethic with me everyday to insure that whatever tasks are assigned to me are fully and timely completed. My work ethic has also made me very independent and I believe that such independence is very important to being a good and ethical jurist.

- (11) Commission Members' Comments:

The Commission commented that Ms. Knie has over 20 years in private practice which has allowed her to develop significant and diverse legal experience.

- (12) Conclusion:

The Commission found Ms. Knie qualified and nominated her for election to Circuit Court, Seventh Judicial Circuit, Seat 2.

**The Honorable James Donald Willingham II
Circuit Court, Seventh Judicial Circuit, Seat 2**

Commission's Findings: QUALIFIED AND NOMINATED

- (1) Constitutional Qualifications:

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

Judge Willingham was born in 1968. He is 48 years old and a resident of Moore, South Carolina. Judge Willingham provided in his application that he has been a resident of South Carolina

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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 Willingham.

Judge Willingham 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 Willingham reported that he has made \$6.00 in campaign expenditures for a name badge.

Judge Willingham 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 Willingham 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 Willingham to be intelligent and knowledgeable. His performance on the Commission's practice and procedure questions met expectations.

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

<u>Conference/CLE Name</u>	<u>Date(s)</u>
(a) Prosecuting the Impaired Driver	06/15/2011
(b) Summary Court Orientation School	07/18/2011
(c) United We Stand; Putting the Pieces Together	10/14/2011
(d) Summary Court Judges Fall Program	11/04/2011
(e) Orientation School of Magistrates	03/05/2012

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(f)	A Brighter Future: Ending Child Abuse	03/30/2012
(g)	Orientation School of Magistrates	07/16/2012
(h)	United We Stand; Putting the Pieces Together	10/05/2012
(i)	Magistrate Mandatory School	11/02/2012
(j)	A Brighter Future: Ending Child Abuse	03/23/2013
(k)	Orientation School for Magistrates	07/22/2013
(l)	Learning to Think Like a Judge	09/27/2013
(m)	United We Stand; Putting the Pieces Together	10/04/2013
(n)	Magistrate Mandatory School	11/01/2013
(o)	S.C. Gun Law Seminar	02/21/2014
(p)	Genetic Privacy and DNA Collection	02/26/2014
(q)	Advanced Studies on S.C. Rules of Evidence	03/14/2014
(r)	Orientation School for Magistrates	03/17/2014
(s)	Specialized Divisions of Magistrate's Court	04/25/2014
(t)	Prosecuting the Impaired Driver	05/21/2014
(u)	Orientation School of Magistrates	07/21/2014
(v)	United We Stand; Putting the Pieces Together	10/03/2014
(w)	Magistrate Mandatory School	11/07/2014
(x)	Orientation School of Magistrates	03/23/2015
(y)	Orientation School of Magistrates	07/20/2015
(z)	United We Stand; Putting the Pieces Together	10/23/2015
(aa)	Summary Court Mandatory Program	11/06/2015
(bb)	Trial and Appellate Advocacy	01/22/2016
(cc)	Criminal Law Update	01/22/2016
(dd)	Living Above the Bar	01/23/2016
(ee)	Breakfast Ethics	01/24/2016
(ff)	Orientation School for Magistrates	03/21/2016
(gg)	Executive Power and Terrorism	03/28/2016

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

- (a) Since 2011, I have taught Criminal and Civil Trial Advocacy at the Magistrate Court Orientation School twice a year.
- (b) Since 2004, I have taught Substantive Criminal Justice to undergraduate students at Spartanburg Methodist College.

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- (c) Since 2006, I have taught Forensics and Ethics to paralegal students at Spartanburg Methodist College.

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

(4) Character:

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

The Commission also noted that Judge Willingham 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 Willingham reported that his last available rating by a legal rating organization, Martindale-Hubbell, was Distinguished, 4.6 of 5.0.

(6) Physical Health:

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

(7) Mental Stability:

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

(8) Experience:

Judge Willingham was admitted to the South Carolina Bar in 1993.

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

- (a) Law Clerk to Circuit Judge Gary Clary from June 1993 to July 1994. Conducted legal research, prepared bench memorandums, drafted orders, verified citations,

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communicated with counsel regarding case management and procedural requirements and assisted the judge during courtroom proceedings as well as performed other responsibilities as assigned by the court.

- (b) Seventh Judicial Circuit Assistant Solicitor – Hired by Solicitor Holman Gossett on July 25, 1994. Assigned to prosecute major felony burglaries as well as select criminal homicide cases in Spartanburg County. Responsible for maintaining a caseload of approximately 750 cases while also traveling to Cherokee County to assist the resident prosecutor during criminal court.
- (c) Seventh Judicial Circuit Assistant Solicitor - Assigned from 1996 to 1998 as the resident prosecutor in Cherokee County. Responsible for all criminal prosecution in General Sessions Court as well as juvenile criminal prosecution in Family Court. Also represented the State in civil proceedings involving bond estreatments, drug forfeitures and nuisance violations.
- (d) Seventh Judicial Circuit Deputy Solicitor - Appointed in 1998 by then Solicitor Holman Gossett to oversee the daily operations of the Spartanburg and Cherokee County solicitor's offices. Additionally involved in major felony criminal prosecution in both counties. Retained in 2001 as Deputy Solicitor after the election of former Solicitor Trey Gowdy. Trial experience includes all major felonies including rape, robbery, burglary, kidnapping and murder. Also actively involved in the successful prosecution of four death penalty trials in both Spartanburg and Cherokee Counties. Served until June 27, 2007
- (e) Spartanburg County Magistrate Judge - Appointed on June 27, 2007, serving continuously. Presiding primarily in the Court's civil division since 2007. Responsible for presiding over both bench trials and jury trials in the court's civil, criminal and traffic jurisdiction. Responsible for all jury qualification and jury trial assignments since 2010. Also responsible for issuing arrest warrants and search warrants for local law enforcement.

Judge Willingham further reported regarding his experience with the Circuit Court practice area:

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In 1994, I was hired as an assistant solicitor in the Seventh Judicial Circuit Solicitor's Office in Spartanburg County. My primary responsibilities at that time included prosecuting burglary cases. I was then transferred to the Cherokee County Solicitor's Office where I prosecuted all the pending criminal cases ranging from shoplifting to murder. I was also responsible for juvenile prosecutions. In 1998, I became the deputy solicitor and was responsible for the prosecutions in both Spartanburg and Cherokee Counties. My criminal trial experience includes all major felony trials as well as four capital murder trials. I held this position for thirteen years.

In 2007, I was appointed to be a Magistrate Judge for Spartanburg County. Since that time, I have presided primarily in the court's civil division. The cases have ranged from breach of contract matters to comparative negligence cases. I have been responsible for both bench trial and jury trials in the court's civil division. Since 2010, I have been responsible for all bi-weekly jury qualification and jury trial assignments in the magistrate's court. When I am not handling jury matters, I am daily presiding over bench trials. I have held this position for over nine years.

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

- (a) Federal: None;
- (b) State: Daily when General Sessions Court was convened;
- (c) Other: N/A.

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

- (a) Civil: 5%;
- (b) Criminal: 95%;
- (c) Domestic: 0%;
- (d) Other: 0%.

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

- (a) Jury: 20%;
- (b) Non-jury: 80%.

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

- (a) Sole Counsel - 90%
- (b) Chief Counsel - 9%
- (c) Associate Counsel - 1%

The following is Judge Willingham's account of his five most significant litigated matters:

- (a) State v. Richard Moore – Death Penalty Case – Moore robbed and murdered store clerk in Spartanburg convenience store. Found guilty and jury recommended death.
- (b) State v. Eric Dale Morgan – Death Penalty Case – Morgan and accomplice ambushed store clerk as he was leaving work, robbed and murdered him and then abandoned his body in a rural part of Spartanburg County. Found guilty and jury recommended death.
- (c) State v. Jonathan Binney – Death Penalty Case – After raping his six month old daughter, he stalked and murdered his victim in Cherokee County so that he could go to prison with the status of murderer versus child molester. Found guilty and jury recommended death.
- (d) State v. Marion Lindsey – Death Penalty Case – Lindsay was separated from his wife after repeated domestic abuse. He tracked her down at work and when she fled the building, he followed her to the Inman Police Department where he murdered her in the parking lot. Found guilty and jury recommended death.
- (e) State v. Wanda Mullinax – Mullinax was convicted of murdering her husband while he slept on Christmas Day. Mullinax claimed she was suffering from Battered Spouse Syndrome. Jury rejected this claim and found her guilty.

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

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

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Spartanburg County Magistrate. Appointed June, 2007 and serving continuously. Civil jurisdiction up to \$7500.00. Criminal jurisdiction typically up to thirty days with some statutory exceptions.

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

- (a) 2014-CV-42-101-6058 – Dianne Hopkins, Plaintiff v. Amanda S. Bissig, Daniel Bissig, Defendants – This matter began as an alleged defamation case but was dismissed after a hearing for plaintiff's failure to state a cause of action. The defendant counterclaimed for sanctions and damages as a result of the filing of this frivolous lawsuit. Damages in the form of attorneys fees was awarded to the defendants on their counterclaims on April 7, 2016.
- (b) Z114163 – State of South Carolina v. Robin Horton – Driving Under the Influence case where defense moved to have case dismissed for failure to comply with the state's videotape recording statute (56-5-2953). Video existed but no audio was present for the performance of the field sobriety tests. The case was dismissed and the State appealed to the Circuit Court. The Circuit Court dismissed the State's appeal (2008-CP-11-529).
- (c) 2010-CV-42-101-1183 – Bernard Terry, Plaintiff v. Kisseme Auction Co., Defendant – Defendant petitioned the court to grant a new trial after a judgment was entered in favor of the Plaintiff. Defendant had been unprepared for trial and indicated that he would be more prepared if the court would give him an additional opportunity to try the case. Defendant's motion was denied and Defendant appealed to the Circuit Court. This case was affirmed on appeal by the Circuit Court (2011-CP-42-1707) and appealed to the South Carolina Court of Appeals where it was dismissed by the Appellant.
- (d) 4201P0031052 – State of South Carolina v. Tanesaha Lanette Talley - Defendant pled guilty to Criminal Domestic Violence and was sentenced to a batterer's treatment program. After sentencing, Defendant petitioned the court to allow her to withdraw her guilty

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plea. This motion was denied. Defendant appealed the order of the court to the Circuit Court. The Circuit Court dismissed Defendant's appeal (2016-CP-42-379).

- (e) Z557267 – State of South Carolina v. Albert Barton Woodard – Defendant was an officer with the Department of Natural Resources who while driving under the influence wrecked his state vehicle. Upon arrival at the scene, the trooper performed field sobriety tests. During the tests, the trooper realized that the video camera was not working properly. The trooper remedied the problem and then conducted the tests again. Defendant petitioned the court to dismiss the case because of a violation of the video recording statute. The case was not dismissed and the defendant was found guilty. The case was appealed to the Circuit Court and to the South Carolina Court of Appeals where the Court issued a Per Curiam decision upholding this court's order (2011-UP-113)

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

Adjunct Professor at Spartanburg Methodist College from 2004 to present. Teaching substantive criminal justice, forensics and ethics. Supervisors – Lorna Hanson – Director of Criminal Justice; Yvonne Harper – Director of Paralegal Program.

- (9) Judicial Temperament:
The Commission believes that Judge Willingham's temperament has been, and would continue to be, excellent.
- (10) Miscellaneous:
The Upstate Citizens Committee on Judicial Qualifications found Judge Willingham to be "Well Qualified" in the evaluative criteria of ethical fitness, professional and academic ability, character, reputation, experience, and judicial temperament, and "Qualified" in the remaining evaluative criteria of constitutional qualifications, physical health, and mental stability.

Judge Willingham is married to Michelle Jennings Willingham. He has three children.

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Judge Willingham reported that he was a member of the following Bar associations and professional associations:

- (a) South Carolina Bar Association
- (b) Summary Court Judge's Association

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

- (a) Lyman United Methodist Church
- (b) University of South Carolina School of Law – First Honor Graduate – December, 1993
- (c) Spartanburg Methodist College Paralegal Instructor of the Year – 2011, 2012

Judge Willingham further reported:

I grew up on a mill village in the small town of Ninety Six, South Carolina. I was the first person in my family to ever attend college. While my parents were not financially well-off, they did instill in me a very strong work ethic. They stressed that you can get ahead in life through hard work, diligent pursuit of your goals and perseverance. These lessons have served me well during my time at Wofford, my success in law school, my achievements in the Solicitor's Office and my service as a magistrate. These lessons would not be forgotten as a circuit court judge.

My parents also taught me that you should never consider yourself better than anyone else. They taught me the principles of Matthew 7:12 that you should always treat others as you wished to be treated. I think these fundamental principles have served me well not only in my career but in my life as a whole. Throughout my legal career, I have tried to be considerate of other people – their time, their rights and the situations they find themselves in. I believe this consideration extends not only to litigants but to the jurors and court staff as well. Too often, judges can develop an inflated sense of self-worth. I think this reflects negatively on our profession and on our judicial system. As a judge, I have always tried to treat everyone

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with respect and expect the same in return – not just with the court but also with each other.

- (11) Commission Members' Comments:
The Commission was impressed with Judge Willingham's intellect and his legal knowledge, as well as his experience as a magistrate.
- (12) Conclusion:
The Commission found Judge Willingham qualified and nominated him for election to Circuit Court, Seventh Judicial Circuit, Seat 2.

**Meliah Bowers Jefferson
Circuit Court, At-Large, Seat 1**

Commission's Findings: QUALIFIED AND NOMINATED

- (1) Constitutional Qualifications:
Based on the Commission's investigation, Ms. Jefferson meets the qualifications prescribed by law for judicial service as a Circuit Court judge.

Ms. Jefferson was born in 1980. She is 36 years old and a resident of Greenville, South Carolina. Ms. Jefferson 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 2005.

- (2) Ethical Fitness:
The Commission's investigation did not reveal any evidence of unethical conduct by Ms. Jefferson.

Ms. Jefferson 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. Jefferson reported that she has not made any campaign expenditures.

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Ms. Jefferson 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. Jefferson 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. Jefferson to be intelligent and knowledgeable. Her performance on the Commission's practice and procedure questions met expectations.

Ms. Jefferson described her continuing legal or judicial education during the past five years as follows:

- (a) 79th Judicial Conference of the Fourth Circuit; May 2016
- (b) 2016 SCWLA "Taking Care of Business and Looking at the Business Side of Law"; March 2016
- (c) SC Bar Convention Wellness Seminar "Fit To Practice"; January 2015
- (d) In-house Counsel and Attorney-Client Privilege; September 2014
- (e) 89th Annual National Bar Association Convention; July 2014
- (f) Haynsworth Perry Inn of Court Series; May 2014
- (g) Lawyer Mentoring Program; May 2014
- (h) Haynsworth Perry Inn of Court Series; November 2013
- (i) Appellate Practice Project: Presenting Criminal Cases to the Court of Appeals; October 2013
- (j) Ethics and eDiscovery; September 2013
- (k) The Carolina Patent, Trademark, & Copyright Law Association Conference; September 2013
- (l) The Connected Corporation; September 2013
- (m) South Carolina Association for Justice Annual Convention; August 2013
- (n) Haynsworth Perry Inn of Court Series; March 2013

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- (o) South Carolina Bar Convention (Dispute Resolution, Torts & Insurance, Trial & Appellate Advocacy, and Ethics seminars); January 2013
- (p) Haynsworth Perry Inn of Court Series; January 2013
- (q) Federal Sentencing Guidelines; November 2012
- (r) Advanced Federal Sentencing Guidelines; November 2012
- (s) Drugs, Alcohol, and the legal Profession; September 2012
- (t) Federal Bar Association Annual Meeting and CLE; September 2012
- (u) Federal Sentencing Guidelines; November 2011
- (v) South Carolina Black Lawyers Association Annual Convention; October 2011

Ms. Jefferson reported that she has taught the following law-related courses:

- (a) Panelist, “Hot Topics in IP Law,” National Bar Association Convention, July 2016
- (b) Panelist, “Taking Care of Business and Looking at the Business Side of Law: Handling Unexpected Life Challenges while Pursuing Your Career,” SCWLA CLE March 2016
- (c) Presenter, “Hot Topics in Civil Trial Practice: Qualification and Examination of Expert Witnesses,” SC Bar – CLE Division, February 2016
- (d) Presenter, “Fit to Practice: Learning How to Roll with the Punches,” January 2016
- (e) Presenter, “Appellate Practice Project,” Greenville Bar Association Annual CLE, February 2015
- (f) Panelist, “Diversity and Inclusiveness: Right Strategy, Right Now,” S.C. Bar Convention, January 2015
- (g) Panelist, “So You Want to Be A Lawyer and A Mom,” SCWLA–Greenville Region, June 2014
- (h) Presenter, “Pre-Trial Motions Practice,” Greenville Bar Association Annual CLE, February 2014
- (i) Presenter, Wyche’s Annual Ethics Roundtable, February 2014
- (j) Panelist, Furman University Constitution Day: Voting Rights Act, September 2013

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- (k) Speaker, Federal Bar Association – Greenville Summer Associate Luncheon; July 2012

Ms. Jefferson reported that she has published the following:

- (a) Co-Author, “Initial Civil Appeals: South Carolina” and “Additional Civil Appeals: South Carolina” Practical Law, 2016
- (b) Contributor, “Issues Relating to Organizational Forms and Taxation U.S.A.–South Carolina,” Lex Mundi Publication, 2010
- (c) Author, "Supreme Court Implements New Business Court Pilot Program," G–Bar News, September 2007

(4) Character:

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

The Commission also noted that Ms. Jefferson 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. Jefferson reported that her rating by a legal rating organization, Super Lawyers, is rising star.

(6) Physical Health:

Ms. Jefferson appears to be physically capable of performing the duties of the office she seeks.

(7) Mental Stability:

Ms. Jefferson appears to be mentally capable of performing the duties of the office she seeks.

(8) Experience:

Ms. Jefferson was admitted to the South Carolina Bar in 2005.

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

I began my legal career in 2005 as a law clerk for the Honorable Jean H. Toal, Chief Justice (now retired) of the Supreme Court of South Carolina. During my clerkship, I had the opportunity to work on a wide variety of cases including complex civil matters, domestic relations, administrative proceedings, and criminal cases. I reviewed numerous appellate briefs and trial transcripts involving civil procedure, constitutional law, and the death penalty. My primary responsibilities were research of the issues on appeal, drafting bench memoranda, and assisting in opinion drafting.

My clerkship ended in 2007 and I joined Wyche, P.A. (then Wyche, Burgess, Freeman, & Parham, P.A.) as an associate attorney practicing general civil litigation. Wyche gave me an opportunity to take on substantive legal work almost immediately upon entering private practice. In the three years of my initial practice with the firm, I actively engaged in trial and appellate litigation. I argued motions in state and federal courts. I participated in all stages of discovery including deposing witnesses. Mandatory alternative dispute resolution requirements have dynamically changed trial practice. As a result, I often participated in mediation preparation and took a principle role in leading clients through mediation on multiple occasions. Even with diminishing opportunities for young lawyers to receive trial experience, I was able to second chair a highly contested condemnation jury trial. I also appeared regularly in family court as an appointed guardian ad litem.

In the fall of 2010, I left Wyche to serve as the lead law clerk for the Honorable J. Michelle Childs upon her confirmation as a District Court judge for the United States District Court for the District of South Carolina. As lead law clerk, I was primarily responsible for assisting Judge Childs in managing the substantive work on her docket, which was substantial. I assisted Judge Childs with legal research and drafting orders on civil, criminal, social security and disability, and *pro se* prisoner cases. I also assisted Judge Childs as she presided over many hearings, sentencings, and more than a dozen jury trials.

I rejoined Wyche in 2013 as an associate. I became a shareholding member of the firm in 2014. I work primarily in

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the area of trial and appellate litigation, with an emphasis on complex civil litigation and intellectual property law. I represent plaintiffs and defendants in cases involving corporate governance, commercial law, election law, governmental authority, media law, and disputes over intellectual property – such as trademark, copyright, patents, and trade secrets. I also assist clients with general corporate matters and advise clients on assessing intellectual property issues associated with corporate transactions, including mergers and acquisitions.

Ms. Jefferson further reported regarding her experience with the Circuit Court practice area:

In my practice, my criminal experience has been limited to my work on the appeal of a murder conviction. My client was convicted of murder under the theory of hand of one hand of all accomplice liability and sentenced to thirty-one years imprisonment. The case was affirmed on appeal to the Court of Appeals. It is currently in the process of briefing on appeal to the Supreme Court. I accepted the pro bono appointment to represent the defendant as part of the Court of Appeals' Appellate Practice Project. In addition to my work on this appellate case, I worked closely with Judge Childs on many criminal matters during my clerkship. These experiences included presiding over pretrial hearings, trials, and sentencing hearings.

I have a broad range of civil litigation experience that spans from the basic breach of contract dispute to complex multi-district litigation matters. As an attorney, I represent plaintiffs and defendants in state and federal court. My cases have involved contractual disputes, medical malpractice, personal injury, franchise disputes, condemnation proceedings, insurance liability, class action litigation, and intellectual property. Because I have had the opportunity to work as lead counsel on a number of cases, I have gained experience in case management and I understand the expectations that attorneys have of judges. From my time as a clerk with Judge Childs, I also understand how to efficiently use judicial resources to move a case from filing through discovery and motion practice to resolution.

Ms. Jefferson reported the frequency of her court appearances during the past five years as follows:

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- (a) Federal: I physically appear in court 2-5 times per year;
- (b) State: I physically appear in court 5-10 times per year;
- (c) Other: I frequently appear in both federal and state court by way of written filings.

Ms. Jefferson reported the percentage of her practice involving civil, criminal, and domestic matters during the past five years as follows:

- (a) Civil: 80%;
- (b) Criminal: 05%;
- (c) Domestic: 00%;
- (d) Other: 15%.

Ms. Jefferson reported the percentage of her practice in trial court during the past five years as follows:

- (a) Jury: 90%;
- (b) Non-jury: 10%.

Ms. Jefferson provided that she most often served as associate counsel on trial court matters. She also reported, more recently, to serving as chief counsel on trial court matters.

The following is Ms. Jefferson's account of her five most significant litigated matters:

- (a) Ford v. Pulliam, C.A. No.: 2014-CP-37-354. This case involved a dispute over the payment of a promissory note. I represented a widow who inherited a promissory note held by her husband's former business partner. I was able to get an award in favor of my client after a bench trial. It is significant because this was the first case I tried as lead counsel.
- (b) Frazer, et al. v. Jasper County, South Carolina, School District, et al., C.A. No.: 9:14-cv-2578-RMG. This was a case concerning a dispute over the Jasper County School Board redistricting. The plaintiffs contended that the General Assembly had failed to timely redraw the school board district lines after the 2010 census. Wyche represented Senator Clementa Pinckney, in his official capacity. I worked on this matter as associate

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counsel. It is significant to me because of the important Constitutional issues resolved in the litigation.

- (c) South Atlantic, LLC v. MP Husky, LLC, C.A. No.: 2008-CP-23-9732. This case involved a dispute over defective industrial parts. South Atlantic sued MP Husky for failure to pay certain invoices for services. MP Husky counterclaimed that South Atlantic provided defective galvanized steel coating on industrial parts causing MP Husky to incur substantial damages to replace products to its end customer. I handled the case as lead counsel and fully prepared it for a non-jury trial. The case went to trial after I began my clerkship with Judge Childs. Wyche successfully secured an award in favor of MP Husky. This case is significant to me because it was the first case in which I handled an expert deposition.
- (d) Bevier v. Blue Cross & Blue Shield of SC, 337 Fed. App'x 357 (D.S.C. July 24, 2009) (unpublished). This case involved a copyright infringement dispute. I represented the plaintiff, a software developer, who alleged that Blue Cross & Blue Shield wrongfully used software that he independently developed. The case is significant to me because it was the first complex intellectual property case that I handled as lead counsel. My interest in intellectual property law began to grow as a result of this case.
- (e) Channelbind Intern. Corp. v. Esselte Corp. et al., C.A. No. 7:08-cv-2880-HMH (D.S.C. October 29, 2009) (unpublished). This case involved a contractual dispute over a licensing agreement. Channelbind International Corporation alleged that Esselte Corporation and related entities failed to properly terminate a licensing agreement authorizing the sale of certain paper binding technology. We represented the Esselte entities in obtaining summary judgment in their favor. The case is significant because it was the first litigation matter that I handled as lead counsel for an international corporation.

The following is Ms. Jefferson's account of five civil appeals she has personally handled:

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- (a) Hodge v. UniHealth Post-Acute Care of Bamberg, LLC, et al., Appellate Case No. 2015-001183 (currently pending in the Court of Appeals)
- (b) Hidria, U.S.A. v. Delo, d.d., 415 S.C. 533, 783 S.E.2d 839 (Ct. App. 2015)
- (c) State v. Harry, 413 S.C. 534, 776 S.E.2d 387 (Ct. App. 2015) cert. granted May 21, 2016
- (d) Jameson v. Morris, 385 S.C. 215, 684 S.E.2d 168 (2009)
- (e) Bevier v. Blue Cross & Blue Shield of SC, 337 Fed. App'x 357 (D.S.C. July 24, 2009)

The following is Ms. Jefferson's account of the criminal appeal she has personally handled:

State v. Harry, 413 S.C. 534, 776 S.E.2d 387 (Ct. App. 2015) cert. granted May 21, 2016

Ms. Jefferson reported that she has not previously been a candidate for judicial office.

(9) Judicial Temperament:

The Commission believes that Ms. Jefferson's temperament would be excellent.

(10) Miscellaneous:

The Upstate Citizens Committee on Judicial Qualifications found Ms. Jefferson to be "Well Qualified" in the evaluative criteria of ethical fitness, professional and academic ability, character, reputation, experience, and judicial temperament, and "Qualified" in the remaining evaluative criteria of constitutional qualifications, physical health, and mental stability.

Ms. Jefferson is married to Ashante Bakari Jefferson. She has one child.

Ms. Jefferson reported that she was a member of the following Bar associations and professional associations:

- (a) American Bar Association
 - (b) National Bar Association
 - (c) South Carolina Bar Association
- Member of the Board of Governors, 2015-2016
Representative to the House of Delegates, 2012-2016

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- (d) South Carolina Chief Justice's Commission on the Profession, Law School Professionalism Committee, 2012-present
- (e) South Carolina Board of Paralegal Certification, Chairperson 2016
- (f) South Carolina Women Lawyer's Association, Board of Directors 2014-2016
- (g) South Carolina Black Lawyer's Association
- (h) Donald James Sampson Bar Association Vice-President 2015-present
- (i) Haynsworth Perry Inn of Court Membership Committee 2014 Executive Committee 2015

Ms. Jefferson provided that she was a member of the following civic, charitable, educational, social, or fraternal organizations:

- (a) American Heart Association
National Go Red For Women Spokeswoman, 2015-2016
Upstate Go Red For Women Spokeswoman, 2014-2015
Upstate Heart Walk Executive Challenge Chairperson, 2014
- (b) Friends of the Greenville Zoo,
Board Member, 2008-2012
Vice-Chairperson, 2012-2013
- (c) The Diversity Recruitment Consortium, Volunteer Ambassador, 2013-present
- (d) Furman University Riley Institute Diversity Leaders Initiative Fellow, 2016
- (e) National Bar Association 40 Best Advocates Under 40, 2015
- (f) Greenville Business Magazine Best and Brightest Under 35, 2014
- (g) South Carolina Bar Association Leadership Academy, 2012-2013
Leadership Greenville Class 38, May 2012

Ms. Jefferson further reported:

When I graduated from law school, I was not convinced that I should stay here and practice law. I did not believe that South Carolina could offer me the type of law

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practice and career that I wanted. But, as fate would have it, I was afforded the opportunity to clerk for Chief Justice Toal at the Supreme Court of South Carolina. My perspective on what it means to be a lawyer was forever changed during that clerkship. I learned some valuable lessons about the sacrifices of those that came before me and even more about the untapped potential for growth of the greater good in our State. Most importantly, I learned about the great rewards of public service. Since that clerkship, I have dedicated much of my time and energy to my community because I wanted to make sure that I was doing something in my life to make a difference in the lives of others. It was not until after I clerked again, this time for Judge Childs, that I really understood the good that great judges can contribute to society. I want to be one of those great judges and I believe that I have the background and experience to meet that requirement. In my experiences as a practitioner, I have gained a wealth of knowledge about many of the areas of law covered in Circuit Court and the nature of my practice helps me to appreciate the complex litigation matters that are working through our State courts. I also have great insight into what it takes to be effective when sitting behind the bench. My clerking experiences are extensive and have provided me with important tools to efficiently and successfully manage a heavy court docket. Finally, I believe that I have the temperament and patience to be a judge that represents the judiciary and the State of South Carolina with dignity and respect.

- (11) Commission Members' Comments:
The Commission commented that Ms. Jefferson has good academic credentials and a great willingness for public service.
- (12) Conclusion:
The Commission found Ms. Jefferson qualified and nominated her for election to Circuit Court, At-Large, Seat 1.

**The Honorable George Marion McFaddin Jr.
Circuit Court, At-Large, 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 Circuit Court judge.

Judge McFaddin was born in 1954. He is 62 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 not made any campaign expenditures.

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.

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- (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 continuing legal or judicial education during the past five years as follows:

<u>Conference/CLE Name</u>	<u>Date(s)</u>
(a) Family Law Sec.	1/2016;
(b) Family Law Sec.	1/2015;
(c) Family Court Judges Conference	4/2015;
(d) Family Law Sec.	1/2014;
(e) Family Court Judges Conference	4/2014;
I was excused by the Chief Justice due to my father's surgery.	
(f) Annual Judicial Conference	8/2014;
(g) Lawyer and Judicial Discipline Conference	11/2014;
(h) Family Court Bench Bar	12/2014;
(i) Family Law Sec.	1/2013;
(j) Family Court Judges Conference	4/2013;
I was excused by the Chief Justice due to my shoulder surgery done that week.	
(k) Annual Judicial Conference	8/2013;
(l) Lawyer and Judicial Discipline Conference	11/2013;
(m) Family Court Bench Bar	12/2013;
(n) Family Law Sec.	1/2012;
(o) Family Law Judges Conference	4/2012;
(p) Presenting the Family Law Case	4/2012;
(q) Annual Judicial Conference	8/2012;
Oddly this one does not show on my CLE records but I have never missed this conference.	
(r) Lawyer and Judicial Discipline Conference	11/2012;
(s) Mandatory Family Court Judges	12/2012;
(t) Family Court Bench Bar	12/2012;
(u) Family Law Sec.	1/2011;
I did not attend and was excused to allow me to finish a trial of several days duration.	
(v) Family Court Judges Conference	6/2011;
(w) Annual Judicial Conference	8/2011;
(x) Lawyer and Judge Discipline Conference	11/2011;
(y) Family Court Bench Bar	12/2011.

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

In the early 1990s I taught torts, family law and trusts and estates at Central Carolina Technical College in the paralegal program. It was part-time work.

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 he is not rated by any legal rating organization.

(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 SC Bar in 1985.

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

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- (a) After law school in 1985 I worked as a law clerk to the Honorable Rodney A. Peebles until July 1986. My job included docket management, research, writing orders, office work to include answering the telephone, setting hearings, and anything else I was told to do;
- (b) I worked at the Bryan, Bahnmuller, King, Goldman and McElveen law firm in Sumter from July 1986 until June 1987. I was an associate and assisted with trial preparation, research, client intake, docket meetings and anything else I was told to do;
- (c) From June 1987 until May 1988 I worked as an associate with the Law Firm of John E. Miles. There I did the same as noted above in (b);
- (d) From May 1988 until August 1990 I was an associate at the firm of Atkinson and Davis. My duties were the same as noted above in (b) and (c);
- (e) From August 1990 until I became a full-time magistrate in 1998 I was a sole practitioner. I handled lots of family law cases. I served as the juvenile court public defender. For a short time I was a public defender in the court of general sessions. I had a small personal injury practice. I also served for two years as the county prosecutor in the magistrate court. After I left this practice to become a full-time magistrate I never practiced law again. In 2002 I began my family court judgeship.

Judge McFaddin further reported the following regarding his experience with the Circuit Court practice area:

Regarding criminal law and trial experience, as a Family Court judge I have presided over a lot of juvenile criminal trials, perhaps as many as 50 or more since 2002. Some have included Jackson-Denno hearings. All have included evidentiary issues. Pre-trial matters have been included and relevant motions. I have presided over at least 6 waiver hearings involving usually homicides. As a magistrate from 1998 to 2002, I presided over a lot of magistrate level criminal trials. And, before becoming a magistrate, I served as a General Sessions public defender for a year and as the county juvenile public defender for four years.

As to civil matters, as a magistrate for four years, I presided over a number of civil trials, mostly automobile accident

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trials. Before becoming a magistrate in 1998, I practiced law and handled civil action and tried probably 10 to 12 trials to a verdict.

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

- (a) Federal: None;
- (b) State: Almost weekly from 1990 to 1998.

Judge McFaddin 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: 25%;
- (c) Domestic: 50%;
- (d) Other: 5%.

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

- (a) Jury: civil and criminal cases - 25%;
- (b) Non-jury: Family Court cases – 50%.

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

Judge McFaddin provided the following account of his five most significant litigated matters:

I simply cannot recall the civil and criminal trials I was involved in from 1990 to 1998 with specificity. I tried several General Sessions trials including murder, involuntary manslaughter, criminal sexual conduct, and burglary. There were no novel issues. On the civil side, I tried at least a dozen cases to a jury. All were auto wreck cases but one was a fraud case. None were significant.

Judge McFaddin reported that he has not personally handled any civil appeals.

Judge McFaddin reported the following criminal appeal he has personally handled:

- (a) State v. Boys, 302 S.C. 545, 397 S.E. 2d 529 (1990).

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Judge McFaddin provided the following account of his most significant orders or opinions:

In all of the following I issued long written rulings instead of rulings from the bench. The rulings were in memorandum form and the lawyers incorporated into the formal orders the rulings. The following were opinions from the appellate courts:

- (a) Ragsdale v. Ragsdale, an unpublished opinion issued under 2008-UP-291, Ct. App. in 2008.
In this case, the central issue was the determination of whether certain improvements to the real estate were personal or real property. I determined the property was real property due to the non-removable nature of the property. The ruling was affirmed;
- (b) Lewis v. Lewis, 392 S.C. 381, 709 S.E.2d 650 (2011).
In this case, the Court of Appeals reversed my ruling relating to the valuation of property, an antebellum house. The Supreme Court, on appeal from the Court of Appeals, reversed the Court of Appeals and reiterated that the family court judge has broad discretion when valuing property and that the family court gave proper weight and credibility to the valuation offered by an expert in the area of such property. This case is cited many times in Family Court opinions since 2011. (The case caption notes that Judge R. Wright Turbeville was involved. He was but only with regard to the temporary order, not my final ruling.);
- (c) Keefer v. Keefer, 294 S.C. 329, 716 S.E.2d 379 (Ct. App. 2011).
In this case, the issue revolved around the interpretation of the parties' written agreement as it related to post-marriage retirement-related benefits. I ruled that the agreement was unambiguous and that the agreement did not include the benefits. The Court of Appeals affirmed noting that agreements are to be given the plain meaning of the agreement;
- (d) Argabright v. Argabright, 398 S.C. 176, 727 S.E.2d 748 (2012).

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Here the central issue was whether the Family Court should allow mother's boyfriend, a registered sex offender, to be in the presence of mother's teenaged daughter. Mother wants the prior restraint lifted. I denied the request finding that mother, even as the child's parent, could not ignore the prior restraint. The Supreme Court agreed and affirmed;

- (e) Crossland v. Crossland, 408 S.C. 443, 759 S.E.2d 419 (2014).

In this case, I issued an order equally dividing the marital assets based upon the conduct of the husband, to a degree, along with the other property division factors. I also noted the years of contributions of the wife to the property. The Court of Appeals reversed most of my rulings but the Supreme Court reversed that court and reinstated my rulings.

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

- (a) Magistrate, August 1998 to July 2002. General jurisdiction magistrate/summary court work to include civil, landlord and tenant, criminal and traffic cases.
- (b) Family Court, July 2002 to present. Cases include divorces with all related issues, adoptions, child support enforcement, abuse and neglect child protection cases, vulnerable adult actions, and juvenile criminal cases.

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

I have had no employment other than as a judge. I did serve as a volunteer firefighter until July 2003 but the compensation was a per-call flat payment used to defray personal costs such as gasoline, clothing, etc.

- (9) Judicial Temperament:
The Commission believes that Judge McFaddin's temperament has been, and would continue to be, excellent.

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(10) Miscellaneous:

The Pee Dee Citizens Committee on Judicial Qualifications found Judge McFaddin to be “Well Qualified” in the evaluative criteria of ethical fitness, professional and academic ability, character, reputation, experience, and judicial temperament, and “Qualified” in the remaining evaluative criteria of constitutional qualifications, physical health, and mental stability.

Judge McFaddin is divorced. He has two children.

Judge McFaddin reported that he was a member of the following Bar and professional associations:

- (a) Sumter County Bar member, 1986–1998;
- (b) SC Bar member since 1985.

Judge McFaddin provided that he was not a member of any civic, charitable, educational, social, or fraternal organizations.

(11) Commission Members’ Comments:

The Commission commented that Judge McFaddin is a respected jurist who strives to bring honor to the bench. The Commission further noted Judge McFaddin’s diverse level of experience and excellent public service record.

(12) Conclusion:

The Commission found Judge McFaddin qualified and nominated him for election to Circuit Court, At-Large, Seat 1.

**Timothy Ward Murphy
Circuit Court, At-Large, Seat 1**

Commission’s Findings: QUALIFIED AND NOMINATED

(1) Constitutional Qualifications:

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

Mr. Murphy was born in 1958. He is 58 years old and a resident of Sumter, South Carolina. Mr. Murphy provided in his application that he has been a resident of South Carolina for at

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least the immediate past five years and has been a licensed attorney in South Carolina since 2006.

(2) Ethical Fitness:

The Commission's investigation did not reveal any evidence of unethical conduct by Mr. Murphy.

Mr. 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.

Mr. Murphy reported that he has not made any campaign expenditures.

Mr. Murphy 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. Murphy also 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. Murphy to be intelligent and knowledgeable. His performance on the Commission's practice and procedure questions met expectations.

Mr. Murphy described his continuing legal education during the past five years as follows:

<u>Conference/CLE Name</u>	<u>Dates</u>
(a) Federal Criminal Practice—Fall 2015	10/29/15
(b) 2015 Annual Public Defender Conference	9/21/15
(c) Circuit Court Mediation Training	4/23/15
(d) Family Law Mediation Training	3/26/15
(e) CJA Mini-Seminar—Spring 2014	5/2/14

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(f) Federal Criminal Practice—Fall 2013	10/24/13
(g) 2013 Annual Public Defender Conference	9/23/13
(h) CJA Mini-Seminar—Spring 2013	5/3/13
(i) Lawyer Mentoring Program	3/1/13
(j) Special Issues in Military Divorce (teaching)	12/11/12
(k) Federal Criminal Practice—Fall 2012	10/25/12
(l) 2012 Annual Public Defender Conference	9/24/12
(m) Federal Criminal Practice—Fall 2011	10/20/11
(n) 2011 Annual Public Defender Conference	9/26/11
(o) Understanding the Immigration Case	7/6/11
(p) CJA Mini-Seminar—Spring 2011	5/13/11

Mr. Murphy reported that he has taught the following law-related courses:

- (a) I lectured in 2012 at a one-credit-on-demand video webcast titled Special Issues in Military Divorce;
- (b) I taught sections on military organizations and military clients in 2011 at a CLE program titled Representing Service members and Veterans in Columbia SC;
- (c) In 2009 I taught a CLE section about military divorce issues at a CLE on Special Issues in Military Divorce in Columbia SC;
- (d) In 2003 at the United States Army Judge Advocate General School in Charlottesville, VA, I lectured on Homeland Security issues to military attorneys;
- (e) Between 2002-03 at the Defense Equal Opportunity Management Institute (DEOMI) at Patrick AFB, FL, I taught sections on unlawful discrimination and sexual harassment to students studying to become AF social actions representatives;
- (f) Between 1994-96 and 2000-01, at the United States Air Force Judge Advocate General School at Maxwell AFB, AL, I taught trial advocacy courses and critiqued less experienced military attorneys using NITA method;
- (g) From 1993-97, I taught at the United States Air Force Academy, Colorado;
- (h) From 1987-90, I taught Business I and II courses for credit for the University of Maryland (Overseas Division) RAF Greenham Common, UK;
- (i) From 1987-88, I taught real estate courses for credit for the City Colleges of Chicago (Overseas Division), RAF Greenham Common, UK;

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(j) From 1985-86, I was a teaching assistant at Duquesne University School of Law, and instructed first year students on legal writing and research.

Mr. Murphy reported that he has published the following books or articles:

(a) Since December 2010 I have written 27 law related informational articles in the quarterly Sumter Living Magazine titled “Murphy’s Law”:

Laws for Animals...and Humans Too! (Vol. 13 No. 4)

Civil Rights and Bathrooms (Vol. 13 No.3)

The Greatest Trial in History: The Nuremberg Trials (Part 2) (Vol. 13 No.2)

The Greatest Trial in History: The Nuremberg Trials (Part 1) (Vol. 13 No. 1)

“Yearning to Breathe Free”: Immigration Law in the United States (Vol. 12 No. 6)

The US Supreme Court and the Institution of Marriage (Part 2) (Vol. 12 No. 5)

The US Supreme Court and the Institution of Marriage (Part 1) (Vol. 12 No. 4)

Jury Service: Duty or Burden? (Vol. 12 No.2)

Injured On the Job? The South Carolina Worker’s Compensation System (Vol. 12 No.1)

Illegal Employment Discrimination: What It Is and What to Do About It (Vol. 11 No. 6)

Help Wanted: Employment Law in South Carolina (Vol. 11 No. 5)

The Law of Armed Conflict (Vol. 11 No.4)

Keep Your Eye on the Road: Laws for Summer Recreation Vehicles (Vol. 11 No.3)

Public Defenders: Advocates for the Poor (Vol. 11 No. 2)

The Church, the State and the Constitution (Vol. 11 No. 1)

Understanding the Veterans’ Disability Claims Process (Vol. 10 No. 6)

Child Custody and Support (Vol. 10 No. 4)

Marriage and Divorce in South Carolina (Vol. 10 No. 2)

Crime Committed by Kids: The Juvenile Justice System (Vol. 10 No. 1)

Make My Day: The Castle Doctrine in South Carolina (Vol. 9 No. 6)

The Military Justice System (Vol. 9 No. 5)

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Duties of a Landowner to Their Guests...and Trespassers Too (Vol. 9 No. 4)

Adoption—A Permanent Solution to a Temporary “Problem” (Vol. 9 No. 3)

What to Expect If You Get Arrested (Vol. 9 No. 1)

Magistrate Court: The “People’s Court” in South Carolina (Vol. 8 No. 6)

Answers to Common Questions About Wills (Vol. 8 No. 5)

Nothing Simple About Simple Documents and Forms (Vol. 8 No. 4)

(b). A Defense of the Role of the Convening Authority: The Integration of Justice and Discipline. 28 The Reporter 3 (September 2001)

(c). Law for Air Force Officers. Kendall-Hunt Publishing Co., Dubuque Iowa (1997) General Editor & Contributing Author

(d). Excerpts from the Nuremberg Trials. 6 USAFA Journal of Leg. Studies 5 (1995-1996) (with Jeff E. Whitfield)

(e). A Matter of Force: The Redefinition of Rape. 39 AF Law Review 19 (1996)

(f). The Commonwealth of Independent States: Mechanism for Stability or Domination? 5 USAFA Journal of Leg. Studies 57 (1994-1995)

(g). Corroboration Resurrected: The Military Response to Idaho v Wright. 145 Mil Law Rev. 166 (1994)

(h). Preparing Prosecuting and Understanding Spouse Abuse Cases. 19 The Reporter 7 (1992)

(4) Character:

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

The Commission also noted that Mr. Murphy 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.

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- (5) Reputation:
Mr. Murphy reported that he is not rated by any legal rating organization.
- (6) Physical Health:
Mr. Murphy appears to be physically capable of performing the duties of the office he seeks.
- (7) Mental Stability:
Mr. Murphy appears to be mentally capable of performing the duties of the office he seeks.
- (8) Experience:
Mr. Murphy was admitted to the South Carolina Bar in 2006.

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

- (a) After graduating from Duquesne School of Law, I served from August 1986 to January 1987 as the Law Clerk for two trial level judges (Hon. Gary G. Leasure and Hon. J. Frederick Sharer) for the Circuit Court in Allegany County, Cumberland, Maryland. I also served as the county legal law librarian. In this position, I assisted the court with research, writing orders and opinions and other duties as directed by the judges. I left this position to enter active duty with the United States Air Force.
- (b) After a period of training (Jan-March 1987), I served as the Assistant Staff Judge Advocate for the 501st Tactical Missile Wing at RAF Greenham Common, United Kingdom between March 1987 and July 1989. I supervised two paralegals and was responsible for adjudicating various tort claims, international claims and medical claims filed against the Air Force totaling over \$250,000 per year. I was the primary legal advisor to the base clinic on medical tort liability and standard of care issues. As a base level prosecutor, I tried thirteen courts-martial, including three where I was specifically requested "by name" to travel to other Air Force bases in the United Kingdom. The cases included vehicular homicide, child sexual abuse, drug distribution, spouse abuse, aggravated assault and other crimes under the Uniform Code of

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Military Justice (UCMJ). I also successfully represented the Air Force in an eviction action against a British subject before the British Crown Court.

- (c) In July 1989 I transferred from the base legal office and became the Area Defense Counsel for RAF Greenham Common, RAF Welford and RAF Fairford, United Kingdom until June 1990. I represented military defendants in a dozen courts-martial, two litigated administrative boards and over 150 various other actions. Cases included rape, arson, assault and other violations of the UCMJ. I never lost a litigated case and was able to get three charged cases dismissed before trial by the commander. My supervisor ranked me as top defense attorney in the United Kingdom.
- (d) From June 1990 to June 1993, I was stationed at Travis Air Force Base, California where I served as one of four full time lead supervisory prosecutors representing the United States at 21 AF bases in an 8 state region throughout the western USA. I obtained convictions in over 60 courts-martial in a three-year period in felony level cases, including rape, armed robbery, aggravated assault, child sexual abuse, spouse abuse, desertion, drug use and distribution, various forms of fraud and theft. I was the first Air Force prosecutor to make use of expert testimony regarding “Battered Spouse Syndrome” to help explain the reluctance of beaten spouses to testify truthfully against their abusers. My responsibilities also included training base level prosecutors in trial preparation and advocacy.
- (e) From June 1993 until February 1997, I was stationed at the United States Air Force Academy teaching various undergraduate legal courses in the Department of Law. Over the course of my tour, I rose to the academic rank of Associate Professor and for three years served as the Course Director of the only legal “core” course at the Academy required for all cadets. In addition to my own teaching load, this duty required me to direct the work of 11 faculty members. I also taught two electives (criminal law and constitutional law). I served as the Academic Advisor in Charge for the Department’s undergraduate Legal Studies major, as an advisor and hearing officer for

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the Academy's Honor Code system, and as a faculty recruiter and tutor for the AFA football team. During my last year, I was chosen to create a new "core" course and oversee the writing and publication of its textbook. In addition to my academic responsibilities, I was the prosecutor in one court martial of a cadet for assault, and served as the Article 32, UCMJ hearing officer (similar to a magistrate in a preliminary hearing) in about six other military cases at various Colorado Springs AF bases. I was selected as the Academy's "Outstanding Educator in Law" for the 1996-1997 academic year.

- (f) From February 1997 until July 2000, I was assigned as the Staff Judge Advocate (SJA) for the 435th Airlift Wing at Dover Air Force Base, Delaware, supervising a staff of seven attorneys, ten paralegals and three civilian support staff at a base consisting of over 5000 active duty personnel. I was responsible for legal advice to over 30 commanders on a wide range of criminal and civil issues, including military justice, environmental law, contracts, labor and employment, property, fiscal and tax law, torts and various administrative actions. On behalf of the base commander, I personally negotiated with legal representatives and other officials from state and federal governments on various issues of concern to the base. These included direct negotiations with the Attorney General of Delaware regarding jurisdiction in criminal cases involving active duty airmen, EPA and state environmental officials on fines for regulatory violations and local authorities regarding zoning restrictions related to property next to the base. I was responsible for the administration of a military justice system that, over a three-year period, prosecuted over 30 courts-martial and over 250 other adverse criminal actions, as well as an additional 150 cases in US Magistrate Court. Additionally, I settled various tort and medical claims against the United States totaling over \$18 million. In 2000, I provided legal briefings, both "on the record" and "on background", to local and national media organizations—including "60 Minutes"—during the national coverage of UCMJ proceedings against an officer who refused to obey an order to take the anthrax vaccine.

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- (g) From July 2000 until January 2002, I was assigned as the Chief Appellate Defense Counsel and Deputy Division Chief of the AF Appellate Defense Division at Bolling AFB, DC. I represented military defendants on appeal before the Air Force Court of Criminal Appeals, the US Court of Appeals for the Armed Forces and the United States Supreme Court. I provided daily management and direction to a staff of 19 attorneys and 3 paralegals, personally argued 5 cases before service courts, and drafted 90 briefs in cases ranging from murder to dereliction of duty. During my tour, I supervised the drafting of over 1400 briefs to the military appellate courts and an additional dozen writs to the US Supreme Court.
- (h) From January 2002 to June 2004, I was assigned to the Headquarters of the Air Force Judge Advocate General Corps at the Pentagon in the Administrative Law Division. I was the primary legal advisor on issues arising from re-organization, homeland security, civil rights, equal opportunity and matters dealing with federal civilian employees. I wrote eight published Civil Law Opinions of the Air Force Judge Advocate General that established precedential policy on matters involving command structures, the constitutionality of various minority recruitment programs and the forced deployment of civilian federal employees in support of operations in Iraq and Afghanistan.
- (i) From June 2004 until my retirement from the Air Force in February 2007, I was the Deputy Staff Judge Advocate of Ninth Air Force and US Central Command Air Forces (9AF/CENTAF) at Shaw Air Force Base, South Carolina. The 13 member legal office at 9AF/CENTAF provided advice to four bases in the USA and over 13 bases and units in Southwest Asia on issues ranging from the UCMJ to flyover rights for AF aircraft under international law. During this assignment, I also was deployed three times as the Staff Judge Advocate (primary legal advisor) at the Combined Air Operations Center at Al Udeid AB in Qatar. In addition to supervising two attorneys, I provided time-sensitive operational legal advice on myriad targeting and other international legal issues arising under the laws of armed conflict to the commander controlling

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combat air operations in Iraq and Afghanistan. I held a Top Secret Security Clearance during my military career and retired with the rank of Lieutenant Colonel.

- (j) After my retirement in February 2007, I joined The Law Offices of Wade S. Kolb, Jr. in Sumter, South Carolina as an associate for one year, and then as a partner in the firm of Kolb & Murphy (now Kolb, Murphy & Givens,) Attorneys at Law, LLC. My practice with the firm consists of criminal defense in federal trial and appellate courts (including military courts-martial), and general civil practice in state and federal courts. My general practice has consisted mostly of probate issues, breach of contract, accidents and claims before various federal administrative bodies. These include proceedings involving the Veterans Administration, Social Security Administration and Equal Employment Opportunity Commission. I have a small family law practice consisting almost exclusively of military clients. Since 2015, I have become a certified mediator in Circuit and Family Courts and a certified arbitrator. I have handled eight mediations in the past year.
- (k) At the same time, I have served as a part-time Public Defender in Sumter County, representing indigent clients in Circuit Court. Since July 2012, I have also served as the Chief County Public Defender for Sumter County, where I assist the Chief Defender for the Third Circuit with administrative responsibilities unique to Sumter County. My caseload as a Public Defender has varied between 150-300 active cases. I have represented indigent clients in a number of litigated cases, including murder, criminal sexual conduct with a minor, criminal sexual conduct first degree, burglary, assault with intent to kill and other crimes.

Mr. Murphy reported the frequency of his court appearances during the past five years as follows:

- (a) Federal: 25%;
- (b) State: 75%;
- (c) Other:

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Mr. Murphy reported the percentage of his practice involving civil, criminal, and domestic matters during the past five years as follows:

- (a) Civil: 15%;
- (b) Criminal: 70%;
- (c) Domestic: 10%;
- (d) Other: 5%.

He reported the percentage of his practice in trial court during the past five years as follows:

- (a) Jury: 25%;
- (b) Non-jury: 75%.

Mr. Murphy provided that he most often serves as sole or chief counsel.

Mr. Murphy's account of his five most significant litigated matters:

- (a) United States v. Scheffer, 523 US 303; 118 S. Ct. 1261; 140 L. Ed. 2d 413 (1998). As the trial prosecutor in this case, I moved to suppress the results of an exculpatory polygraph offered by the defendant to deny his use of illegal drugs. The defendant had moved at trial that he was entitled to introduce this evidence and that military rules of evidence mandating exclusion were in violation of the due process clause. At trial, I successfully argued against the defense motion. On appeal, after one military appellate court held otherwise, the US Supreme Court concluded that the military rules of evidence mandating exclusion of polygraph evidence did not violate the due process clause and the conviction in this case was ultimately affirmed.
- (b) South Carolina v. Stavis, 2009-GS-43-0801. This was the last of three trials in which I represented Mr. Stavis, the last two of which he was facing life imprisonment without parole if convicted. He was acquitted at each trial. In this case, Mr. Stavis was charged with CSC 1st, Kidnapping and Burglary First degree. The State's evidence included a DNA sample. At trial, I elicited testimony from the alleged victim during cross-examination that flatly contradicted the testimony of a police officer testifying for

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the State. I was also able to introduce evidence that the alleged victim had a poor reputation for truthfulness, had racial bias and undercut the argument that the encounter was non-consensual. The case received some coverage in the local media and, given the prior acquittals, the State gave a maximum effort to secure a conviction. It was an extremely difficult case factually given the DNA evidence.

- (c) United States v. Manginell, 32 MJ 891 (AFCMR 1991). This case, arising from “Operation Just Cause” (the US invasion of Panama in 1989) was the first military prosecution for the charge of “looting” under Article 103, UCMJ in about twenty-five years. During my preparation as the trial prosecutor, I discovered a conflict in the military legal authorities concerning the definition of “looting” and whether an element of “force” was required for the crime. In support of the legality of defendant’s guilty plea to the charge, I drafted a detailed brief supporting the conclusion that the crime of “looting” did not require an element of force. On appeal, the Air Force appellate court agreed with my analysis and referenced my brief in its opinion upholding the plea. The case was relied upon in subsequent military cases concerning this crime, and the current definition of “looting” in military legal authorities clearly reflect its holding concerning the absence of force.
- (d) South Carolina v. Shannon, 2010-GS-43-0648. I represented Mr. Shannon at trial on a murder charge. He was accused of shooting and killing his girlfriend. The defense strategy was to seek a conviction for involuntary manslaughter, arguing that while my client was reckless, the shooting was not malicious. The defense case was “proven” through the State’s witnesses and evidence, including the 911 tape submitted by the State, the testimony of first responders and some helpful testimony from the forensic experts from SLED. I also successfully argued against the State’s contention that a charge for involuntary manslaughter was not supported by the facts. Mr. Shannon was convicted by the jury of involuntary manslaughter and was sentenced to five years.

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- (e) United States v Hennis, 40 MJ 865 (AFCMR 1994). The complexity of this case is not evident in the appellate opinion. I served as the trial prosecutor. The defendant was charged with various indecent acts upon his minor daughter at his duty stations in Utah and in Idaho. On the evening before trial, defendant and his civilian defense attorney left Idaho, traveled to Utah and attempted to enter guilty pleas to similar charges in state court. Utah authorities returned the defendant to military authorities. However, defendant's wife and daughter (the victim) refused to return to Idaho to testify in his court-martial. As a result, the prosecution case rested on a detailed "diary" summarizing and detailing the abuse that was required as part of her medical treatment. I successfully overcame a defense motion to suppress this "diary" under the hearsay exception for statements made in furtherance of a medical diagnosis. I also successfully argued against attacks on military jurisdiction and bias in the selection of the court-martial panel. After losing this motion, defense conceded certain facts (that serve as the basis for the appeal). Defendant was convicted without the testimony of the victim.

Mr. Murphy reported that he has personally handled the following civil appeals:

- (a) I have been involved in an appeal of one probate matter to the Court of Common Pleas. The case was Wise v. Manley, 2007-CP-14-190. The Court of Common Pleas remanded the case to the Probate Court requesting clarification on one of the issues and shortly afterward, the case settled.
- (b) I have had two appellate cases before the US Court of Appeals for Veterans' Claims. The first involved an appeal and brief supporting reversal of a decision by the Board of Veterans' Appeals (BVA). The second involved filing a Petition for a Writ of Mandamus requesting enforcement of a BVA order by the VA Regional Office in Tampa, Florida. In both cases, the General Counsel for the VA joined the actions and the matters were ultimately settled in favor of my clients.

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Mr Murphy reported that he has personally handled the following criminal appeals:

- (a) United States v. Washington, 54 MJ 936 (AF Court of Criminal Appeals 2001); remanded United States v Washington, 57 MJ 936 (US Court of Appeals Armed Forces 2002) decision date: 9/20/2002
- (b) United States v. Whitney, 55 MJ 413 (US Court of Appeals Armed Forces 2001) decision date: 9/20/2001
- (c) United States v. Traum, ACM No. 34225 (AF Court of Criminal Appeals 2002) (unpublished) decision date: 6/28/2002
- (d) United States v. Ross, 416 Fed. Appx 289 (4th Cir. 2011) (unpublished) date decided: 3/16/11
- (e) United States v. David, 12-4492 (4th Cir. 2013) (unpublished) date decided: 1/31/13

Mr. Murphy reported that he has not previously held judicial office.

- (9) Judicial Temperament:
The Commission believes that Mr. Murphy's temperament would be excellent.
- (10) Miscellaneous:
The Pee Dee Citizens Committee on Judicial Qualifications found Mr. Murphy to be "Well Qualified" in the evaluative criteria of ethical fitness, professional and academic ability, character, reputation, experience, and judicial temperament, and "Qualified" in the remaining evaluative criteria of constitutional qualifications, physical health, and mental stability.

Mr. Murphy is married Jody Diane Murphy. He has two children.

Mr. Murphy reported that he was a member of the following Bar associations and professional associations:

- (a) Sumter County Bar Association, 2007 to present
- (b) South Carolina Bar Association, 2007 to present
- Law Related Education (LRE) Committee (2007-present);
- Military and Veterans Law Council (2012-present; Vice-Chair)

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- (c) Duquesne University Law School Alumni Association (2007-present)
- (d) South Carolina Public Defender Association (Third Judicial Circuit Representative, 2015-present)

Mr. Murphy reported he is a member of the following civic, charitable, educational, social, and fraternal organizations:

- (a) Sumter-Palmetto Rotary Club (2007-2016 (Board member);
- (b) Sumter Rotary Morning Club (2016-present)
- (c) Military Officers Association of America, Santee-Wateree Chapter (2011-present, Vice-President, President)
- (d) Sumter-Shaw Community Council (2007-present)
- (e) Knights of Columbus (2016-present)
- (f) Iraq and Afghanistan Veterans of America (IAVA) (2016-present)
- (g) Saint Anne Catholic School Advisory Board (2012-13, President)
- (h) Our Lady of the Skies Catholic Chapel Advisory Council (2012-2015) Chapel Finance Working Group, 2012-2015)

Mr. Murphy further reported:

Neither of my parents finished high school. However, they remain two of the wisest people I have ever known. Education was always a priority in our household growing up. My parents were well read. Both were well informed and encouraged discussions regarding current events, politics and religion. They instilled in me a love for learning that I have possessed throughout my life. Thanks to their example, I have viewed my professional career as one continuous opportunity to learn something new—about the law, about people and about myself.

My parents were not wealthy. Reflecting on my childhood, it has become very evident to me that they struggled financially. At times, we lived without electricity and plumbing because we could not afford to have these fixed. Our entire home was the size of some families' garages. At the time, however, these challenges didn't seem burdensome. My parents viewed themselves as blessed, and consistently reminded my brother and me that we were fortunate to live in a nation with so much to offer, and that there existed so many who were less fortunate. They taught me that all people had value, and that character and integrity—rather than wealth and status—were the true measures of a person.

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Despite their financial situation, my parents were generous people—with their time and resources. They sacrificed by providing as much as possible for my education and supporting my goals. Prior to high school, I wanted to study for the Catholic priesthood. My parents supported me, paying tuition for me to attend Saint Fidelis Seminary and dealing with my absence at home during four years of high school and my freshman year of college. After I transferred to Duquesne, they supported me financially as much as possible and provided me with advice and guidance on numerous matters. Though my parents have been dead for many years, I still rely on their guidance and example, and have tried, through my faith and my conduct to prove worthy of their sacrifice and example.

While the example and support of my parents was vital to me as I matured, the single most important influence in my life has been my wife of almost thirty years. Daily, my wife demonstrates patience, kindness and love. Her present profession as a teacher stemmed from her belief that God was calling her to be a witness of those traits to children in her care. Together we have raised two sons who have grown into men of good character and inspire me daily with their examples.

One benefit of my Air Force career is that I have had a wide variety of legal and life experiences. I have enjoyed the personal and professional challenges of every duty position in which I have served. Both in the Air Force and since my retirement, I've had the opportunity to meet and deal with a wide variety of people from different backgrounds and cultures from across our country and throughout the world.

What I have come to believe is that, notwithstanding their differing backgrounds and cultures, most people have similar outlooks and values, and most people reciprocate the type of treatment they receive. I have also witnessed, both in my own family and in dealing with various people, the capacity of each person for doing great good or great harm, as well as the capacity to overcome poor decisions.

I have been shaped and influenced by my faith, my education, my experiences as well as the examples of my wife, family and my parents. These influences have served me well in my roles as a husband, father, officer and an attorney, and should I have the privilege, they would provide the basis of my conduct as a Circuit Court judge.

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- (11) Commission Members' Comments:
The Commission found that Mr. Murphy has a strong intellect and has also displayed a strong sense of service and dedication to his country. The Commission believes that he is a hardworking, dependable, and dedicated trial lawyer.
- (12) Conclusion:
The Commission found Mr. Murphy qualified and nominated him for election to Circuit Court, At-Large, Seat 1.

**FAMILY COURT
QUALIFIED AND NOMINATED**

**Mindy Westbrook Zimmerman
Family Court, Eighth Judicial Circuit, Seat 2**

Commission's Findings: QUALIFIED AND NOMINATED

- (1) Constitutional Qualifications:
Based on the Commission's investigation, Ms. Zimmerman meets the qualifications prescribed by law for judicial service as a Family Court judge.

Ms. Zimmerman was born in 1980. She is 36 years old and a resident of Newberry, South Carolina. Ms. Zimmerman 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 2006.

- (2) Ethical Fitness:
The Commission's investigation did not reveal any evidence of unethical conduct by Ms. Zimmerman.

Ms. 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.

Ms. Zimmerman reported that she has made the following campaign expenditures: approximately \$15 for a nametag,

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approximately \$70 for cards outlining her qualifications, and expenditures of \$413.56 for name badges, holiday cards, postcards and postage.

Ms. Zimmerman 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. Zimmerman 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. Zimmerman to be intelligent and knowledgeable. Her performance on the Commission's practice and procedure questions met expectations.

Ms. Zimmerman described her continuing legal or judicial education during the past five years as follows:

<u>Conference/CLE Name</u>	<u>Date(s)</u>
(a) SC Solicitor's Conference	9/24/2006
(b) NDAA – Prosecutor's Bootcamp	2/12/2007
(c) SC Solicitor's Conference	9/23/2007
(d) NDAA – Prosecuting Drug Cases	9/30/2007
(e) Community Response to Child Abuse & Neglect	2/21/2008
(f) NDAA – Trial Advocacy I	6/9/2008
(g) SC Solicitor's Conference	9/28/2008
(h) SC Solicitor's Conference	9/28/2009
(i) Stewart Title – Review and Updates for Real Property	3/16/2010
(j) Recognizing and Reporting Child Abuse	3/24/2011
(k) Public Defender's Conference	9/26/2011
(l) Lawyer Mentoring Orientation Workshop	1/26/2012
(m) SC Bar Family Court Mediator certification Training	11/12/2012

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| (n) | Lawyer Mentoring Orientation Workshop | 1/30/2013 |
| (o) | SC Bar Guardian Ad Litem Course | 1/31/2014 |
| (p) | Old Republic National Title Fall Seminar | 10/9/2014 |
| (q) | 2015 SC Bar Convention | 1/22-24/15 |
| (r) | Ethics and the Internet | 3/13/2015 |
| (s) | 2015 SCAJ Annual Convention | 8/6-8/15 |

Ms. Zimmerman reported that she has taught the following law-related courses:

- (a) I lectured via an eCLE for the SC Bar entitled “Hooking Fees: An Analysis of Rules for Winning or Defending Against Fee Awards in Family Court from Griffith and Glasscock to Buist” in the Spring of 2015.
- (b) I lectured via an eCLE for the SC Bar entitled “Avoiding the Pitfalls: Lawyers and Substance Abuse” in the Summer of 2015
- (c) In addition, I have served as a Mentor under the SC Bar Lawyer Mentoring Pilot Program in 2011 for Ashley Agnew.

Ms. Zimmerman reported that she has not published any books or articles.

(4) Character:

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

The Commission also noted that Ms. Zimmerman 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. Zimmerman reported her rating by a legal rating organization, Martindale-Hubbell:
Martindale-Hubbell Client Rating is 5 out of 5.
Martindale-Hubbell Peer Review Rating is BV

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Avvo Rating is 8.0

Ms. Zimmerman reported that she has never held public office.

- (6) Physical Health:
Ms. Zimmerman appears to be physically capable of performing the duties of the office she seeks.
- (7) Mental Stability:
Ms. Zimmerman appears to be mentally capable of performing the duties of the office she seeks.
- (8) Experience:
Ms. Zimmerman was admitted to the South Carolina Bar in 2006.

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

- (a) November, 2006 to February, 2009: Assistant Solicitor with the Eighth Judicial Circuit Solicitor's office prosecuting criminal cases in Laurens and Newberry Counties. For two years, I handled primarily narcotics offenses in both Laurens and Newberry. During my last year with the Solicitor's Office, I handled general crimes, magistrate court appeals, and docket management for Newberry County.
- (b) February, 2009 to present: In February of 2009, along with my law partner, Benjamin L. Shealy, I formed Zimmerman and Shealy, LLC. During the course of building the firm, I have focused primarily on family court matters, including private domestic actions, DSS, and DJJ. In addition, I regularly serve as Guardian ad Litem or Mediator in domestic matters. In addition, our firm handles real estate closings, magistrate's trial work, criminal trial defense, civil trial work, and estate and probate matters. For the first year of our practice, we could not engage in criminal defense, because I agreed to work as a special prosecutor for the Eighth Judicial Circuit, which included handling the prosecution of juvenile cases in Newberry County during that time. In addition to maintaining my case load, I have been the

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managing partner, handling all bookkeeping and office management duties for the firm.

Ms. Zimmerman further reported regarding her experience with the Family Court practice area:

I believe that I am uniquely qualified for the position of Family Court Judge, as I have had the benefit of serving in every position a lawyer may hold in that venue. In divorce cases, I have represented Husbands and Wives, in fault-based and no-fault divorce, and I have worked on equitable divisions of property. In custody cases, I represented Mothers and Fathers, and I have also had a great deal of experience advocating for children, as a Guardian *ad Litem*. In adoption matters, I have represented adopting parents, served as Guardian *ad Litem*, and assisted parents in relinquishing their rights. I have appeared as the attorney for the South Carolina Department of Social Services in abuse and neglect cases, but I have also served as the attorney for the State's Guardian *ad Litem*, and I have had the pleasure of representing parents in these cases. I have also worked on numerous cross-over cases, which had both a private custody component, as well as a DSS component. I have served as both Prosecutor and Defense attorney in Juvenile matters. I have also represented numerous clients in DSS child support negotiations and Clerk's Rules. I believe my varied experience in the Courtroom will help me fully understand the points of view of each party, regardless of the type of matter.

To elaborate on what I have outlined, it is probably easiest to give a chronological account of my career. I was fortunate to have as my first job as a practicing attorney the position of Assistant Solicitor in the Eighth Judicial Circuit. Young Assistant Solicitors generally learn a lot of lessons the hard way, as they are quickly given large caseloads with plenty of opportunity for in-court experience. I spent a lot of time in the Courtroom, which helped me to gain a greater understanding of the Rules of Evidence and Procedure. While I am thankful for the strong foundation I had from law school, nothing puts your knowledge to the test like

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the pressure of making a split-second decision in the Courtroom.

After nearly a year in handling exclusively drug cases, I was given the opportunity for advancement. I moved my office into the Newberry County Courthouse, where I prosecuted a wide assortment of crimes. In addition, I was charged with managing the docket for that county. During this time, I handled a wide range of cases, including juvenile matters.

From my time as an Assistant Solicitor, I learned the value of working with law enforcement, victims, and community groups (such as MADD, SADD, etc.) to ensure all voices get heard. Different crimes impact various individuals, in many different ways. Often those impacted crave an avenue, simply to express the emotional consequences. I quickly learned that being a good lawyer is not all about having a skilled tongue...sometimes the most important skill is to be a good listener. That lesson has served me well in private practice, because the emotional needs of clients moving through the Family Court system far outweigh those I saw in the criminal system.

In 2009, I decided to face the next chapter in my professional career. I, along with a fellow prosecutor, decided to open Zimmerman and Shealy, LLC. During my time as a prosecutor, I developed a reputation for being relaxed under pressure, at-home in the Courtroom, quick on my feet, and unafraid to face a challenge. That reputation helped me to build a very successful practice. The interesting thing for me in this new chapter of my career has been the added value of having a larger variety in life.

When we first started our practice, our firm was the contract attorney for the Department of Social Services in Newberry. In addition, I maintained a contract with the Eighth Circuit Solicitor prosecuting juvenile cases. I quickly build a solid family law practice, and after those two contract expired, people who had once been on the opposite side of the courtroom began to seek me out as counsel in DSS and DJJ matters. I quickly became very comfortable in the Family Court realm.

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While sympathy was such a critical part of prosecuting, I believe empathy is a crucial element of family law. So often it is necessary to hear about the path that led a client to this point in their life. Often clients feel betrayed by the person they thought would be with them as they grew old. Sometimes they are more focused on vengeance than equity. Occasionally they are beaten, broken, or scared to face their opponent. Those feels and needs matter, because as their counselor, I cannot simply lead them from one end of the process to the other, but I must help them find the right resources to find closure and begin to heal. This is true of litigants, but it is even more crucial with children. Family Court Judges are uniquely charged with the responsibility of State's youth. They must hold, as their chief concern, the best interest of the children who are abused or neglected, the children who are the subject of heated custody matters, and even the children who have violated our law, because those Judges have the power to make a permanent difference in that little life.

Ms. Zimmerman reported the frequency of her court appearances during the past five years as follows:

- (a) federal: 0%
- (b) state: 100%

Ms. Zimmerman reported the percentage of her practice involving civil, criminal, and domestic matters during the past five years as follows:

- (a) civil: 5%
- (b) criminal: 30% (Approximately 20% in General Sessions and 10% in Family Court juvenile matters)
- (c) domestic: 60%
- (d) other: 5% - real estate

Ms. Zimmerman reported the percentage of her practice in trial court during the past five years as follows:

- (a) jury: 20%
- (b) non-jury: 80%

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Ms. Zimmerman provided that she most often served as sole counsel.

The following is Ms. Zimmerman's account of her five most significant litigated matters:

(a) State v. Tyrone Cannon

2009-GS-36-852 through 856

Newberry County General Sessions Court

I served as defense counsel for Tyrone Cannon. Mr. Cannon was charged with Assault and Battery with Intent to Kill; however, he had been previously diagnosed with Mild Mental Retardation. At the first attempt to litigate this matter, during a competency hearing, I was able to reveal significant flaws in the procedure by which the Court Ordered evaluation was conducted, resulting in a mistrial of the case. After subsequent evaluations, several hearings on the matter, and the election of a new Solicitor, I was able to negotiate the case to an Assault and Battery of a High and Aggravated Nature.

(b) State v. Roy Johnson

2008-GS-36-311 through 315

Newberry County General Sessions Court

I prosecuted Roy Johnson, along with his two co-defendants. Both of his co-defendants pled guilty after being noticed of the possibility of a sentence of life without parole; however, Roy Johnson did not have the requisite criminal history for the service of such upon him. These three individuals committed a violent home invasion, in which a mentally handicapped girl was duct-tapped to her bed and brutally beaten. In addition, her father was beaten and nearly shot to death. The family was saved only due to the mother's quick thinking. She escaped, went to a neighboring house, and brought help before her husband and daughter were killed. Although never proven in Court, it was the belief of the State that this was a gang initiation. Roy Johnson was convicted of this offense; however, only after a second trial, because the jury hung on the first trial.

This case was significant because I was able to get to know this family. The cruel nature of this offense and the

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innocent nature of the victims is something that has always stayed with me.

This case was also significant to me, because since I started my private practice, I have done a great deal of legal work for the victims in this case, including one child custody case and one step-parent adoption matter.

(c) State v. Sophie Egleston

E443330, 31, and 32

Lexington County Magistrate Court

Appeal: 2011-CP-32-303

Lexington County Court of Common Pleas

I defended Ms. Elgeston on the charges of Driving Under the Influence, False Information, and Use of the License of Another in Magistrate's Court. Although the jury acquitted Ms. Elgeston on the charge of Driving Under the Influence, she was convicted of the other two offenses. I subsequently appealed the case to the Circuit Court, and was successful in getting the conviction overturned on the charge of Use of the License of Another, due to an error in the charge given by the trial court and a lack of evidence presented by the State. This case was significant, because it happened while Ms. Egleston was in college. Three years later, Ms. Egleston came back to me, because she was applying for a job at a bank, and wanted to have the False Information conviction expunged from her record. I was able to obtain that expungement, since she only had one conviction, which meant that my efforts on appeal, allowed this young woman to obtain a good job. I was also able to see Ms. Egleston had grown from the girl she was in college into a mature, responsible young woman.

(d) Cathy Frick v. Hughey G. Capps

2010-CP-36-356

Newberry County Court of Common Pleas

AND

2010-DR-36-360

Newberry County Family Court

This case was significant due to the very unusual nature of the case. I represented Ms. Frick, who owned a home in Newberry County. Ms. Frick was an avid outdoorsman, who developed a close friendship with Mr. Capps who was a fishing guide. Subsequently, Mr. Capps

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suffered a heart attack, which started him on a downward financial spiral. When he lost his home, Ms. Frick allowed him to move into her home, where he lived for several years. However, this situation later caused problems with Ms. Frick's boyfriend. Eventually, Ms. Frick filed for an eviction, but at that hearing, Mr. Capps claimed the parties were husband and wife, because of a common law marriage. The Magistrate ruled that, since they lived in the same house, they probably were married, and dismissed the eviction. Ms. Frick then hired me. I filed an appeal to the Circuit Court from the dismissal of the eviction and an action in Family Court seeking to declare that the parties were *not* married. The Circuit Court granted the appeal on the basis that only Family Court and Probate Court have the jurisdiction to determine the question of common law marriage, and thus, the Magistrate should not have dismissed the eviction, but instead referred the case to the Family Court for a ruling on the question of the validity of the marriage. Subsequently, the Family Court ruled that there was absolutely no evidence of intent to marry. Thus, after a very interesting passage through the Court system, Mr. Capps was evicted from Ms. Frick's residence.

(e) Thomas Jeffrey Frady v. Leonard Scott Gregory and Thomas H. McAllister

2012-CP-36-414

Newberry County Court of Common Pleas

I served as counsel for Thomas H. McAllister. This case was significant because of the very interesting facts that led to the action. McAllister was friends with Frady, who operated a business as an auto mechanic in a garage that he did not own. During a period of incarceration, Frady requested that McAllister continue to operate the garage, because the building was old and if the electricity was ever disconnected, it would have to be brought to current code in order to reconnect. During the period in which McAllister was operating the business, Gregory worked as the mechanic. Gregory was working on a vehicle, which had apparently been left in drive, and the vehicle ran over Gregory and crashed into the garage. McAllister, through a different attorney, was able to receive a cash

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settlement for property damage, all of which was reinvested back into repairs on the building. Subsequently, Frady was released from incarceration, purchased the building, and sued both Gregory and McAllister, claiming that the funds should have been given to him, as the owner of the business, instead of being reinvested back into the building. We were successful in convincing the trial court that Frady was not damaged by the repairs to the building, but the facts of the case were very unique, particularly considering that actual title-owner of the building at the time of the loss was not a party to the action.

The following is Ms. Zimmerman's account of five civil appeals she has personally handled:

(a) Wayne Turner

I served as Defense Counsel at trial for Wayne Turner
2007-CP-36-412
Newberry County Court of Common Pleas
I defended the appeal on behalf of Wayne Turner.
Unpublished Opinion 2011-UP-563
South Carolina Court of Appeals
Grant of Summary Judgment in Favor of Defendant was upheld.

(b) Charlotte Barfield v. James Simmons

I defended the appeal on behalf of James Simmons
Case Tracking #201194246
South Carolina Court of Appeals
Following the submission of briefs, the appellate dismissed the appeal.

(c) Dr. William Edward Bull, III v. Vicky Raycene Bull

I filed the appeal on behalf of Dr. Bull from the Eighth Circuit Family Court, Judge McGowan presiding.
2013-002204
South Carolina Court of Appeals
Unpublished Opinion in favor of Ms. Bull

(d) Allen Koon and Larry Koon v. Thomas Jackson

I filed the appeal on behalf of Thomas Jackson from the Eighth Circuit Court of Common Pleas, Judge Hocker presiding.
Appeal from 2014-CP-36-00109

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South Carolina Court of Appeals
Unpublished Opinion in favor of the Koons.

(e) Austin Byrd v. Courtney Hawkins

I filed the appeal on behalf of Austin Byrd from the Eighth Circuit Family Court, Judge Smithdeal presiding.
Appeal from 2012-DR-36-433
South Carolina Court of Appeals
Unpublished Opinion in favor of Ms. Hawkins.

The following is Ms. Zimmerman's account of two criminal appeals she has personally handled.

(a) State v. Sophie Egleston

Appeal from Lexington County Magistrate Court to Circuit Court
Reversed in part and Affirmed in part

(b) State v. Jesse V. Osborne, III

Appeal from Newberry County Magistrate Court to Circuit Court
Tickets F327898 and F503955
Reversed in full – Directed Verdict of Not Guilty

Ms. Zimmerman further reported the following regarding an unsuccessful candidacy:

I was previously a candidate for At-Large Circuit Court Seat Number 9, during the Fall, 2014 Screening Process. I was determined to be Qualified, but not Nominated.

(9) Judicial Temperament:

The Commission believes that Ms. Zimmerman's temperament has been and would continue to be excellent.

(10) Miscellaneous:

The Piedmont Citizens Committee on Judicial Qualifications found Ms. Zimmerman to be "Well Qualified" in the evaluative criteria of ethical fitness, professional, and academic ability, character, reputation, experience, and judicial temperament, and "Qualified" in the remaining evaluative criteria of constitutional qualifications, physical health, and mental stability. The Committee stated in summary that they were "very impressed by the high level of energy and ability that Ms. Zimmerman obviously brings to her job as an experienced Family Court

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lawyer, and we are confident that she would bring these same qualities to the position of Family Court judge. She is well-regarded by her peers and has a wide range of relevant experience.”

Ms. Zimmerman is married to Donald Franklin Zimmerman. She has no children.

Ms. Zimmerman reported that she was a member of the following Bar associations and professional associations:

- (a) Newberry County Bar Association
- (b) South Carolina Bar Association
- (c) South Carolina Association for Justice
- (d) ALTA
- (e) South Carolina Association for Justice
- (f) National Trial Lawyers Association

Ms. Zimmerman provided that she was a member of the following civic, charitable, educational, social, or fraternal organizations:

- (a) Newberry Business Alliance
 - Board Member since 2014
- (b) Newberry County Chamber of Commerce
- (c) South Carolina Jaycees
 - Outstanding First Timer Award (1st Qrt, 2012)
 - Outstanding Young Business Leader (2012)
- (d) Newberry County 100th Anniversary Girl Scout Celebration
 - Committee Fund Raising Coordinator / Bookkeeper (2012)

Ms. Zimmerman further reported:

I believe my life experiences have certainly prepared me for this position. My parents divorced with I was twelve years old, and during my freshman year in college, they went back to Family Court to litigate custody of my younger brother. I was a witness in that case. Having experience first-hand what it is like to be a child in this system, I understand the logic behind the phrase “best interest of the child.” As lawyers, we use that as an argument, but I understand that the phrase has meaning, and that the Judge’s actions impact these fragile, young people. I want the benefit of

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touching lives in a positive way. I want to foster trust and integrity in our judicial system.

I also believe in the importance of hard work. My parents both had only a high school education. I watched them both work entry level positions in manufacturing industries when I was a child. I worked multiple jobs from the time I was twelve years old in order to help support my family, while finishing high school with a high grade point average, remaining on the Dean's List through college, obtaining my bachelor's degree in only three years, and completing the courses necessary for my master degree and law degree at two different universities, which were approximately three and half hours drive apart, nearly simultaneously. I intend to continue the same dedication and determinate that has carried me this far in life. I believe that would serve me well on the bench.

I watched my parents work hard every day, which taught me the value of earning what you have. I am driven, dedicated, and determined, because in my life, anything less is simply unacceptable. I face every element of my life with self-motivation; however, I have never been afraid to watch and learn from those around me. These skills will certainly serve me well on the bench.

I believe that my background will help me relate to the litigants before me, since many of them will be from the same working-class environment. I understand the struggles that come with that, and those roots will always keep me grounded.

- (11) Commission Members' Comments:
The Commission noted Ms. Zimmerman's reputation as an experienced and able family court practitioner.
- (12) Conclusion:
The Commission found Ms. Zimmerman qualified and nominated her for election to Family Court, Eighth Judicial Circuit, Seat 2.

Samuel M. Price Jr.
Family Court, Eighth Judicial Circuit, Seat 2

Commission's Findings: QUALIFIED AND NOMINATED

- (1) Constitutional Qualifications:

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Based on the Commission's investigation, Mr. Price meets the qualifications prescribed by law for judicial service as a Family Court judge.

Mr. Price was born in 1949. He is 67 years old and a resident of Newberry, South Carolina. Mr. Price 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 Mr. Price.

Mr. Price 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. Price reported that he has made \$584.46 in campaign expenditures for:

Turner Photography and Restoration for a photograph - \$100.31

M.T. Pring and Design for tri-fold brochures - \$476.15

City of Columbia Parking Service for ticket for expired meter - \$8.00

Mr. Price 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. Price testified that he is aware of the Commission's 48-hour rule regarding the formal and informal release of the Screening Report.

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- (3) Professional and Academic Ability:
The Commission found Mr. Price to be intelligent and knowledgeable. His performance on the Commission's practice and procedure questions met expectations.

Mr. Price described his continuing legal or judicial education during the past five years as follows:

Pursuant to Appellate Court Rules Appendix C III. Exemptions B., "members who are at least sixty (60) years old and have been admitted to the practice of law for thirty (30) or more years . . ." are exempt. On November 6, 2009, I became 60 years old. In December of 2004, I had been practicing law for thirty (30) years. Although I am exempt from CLE requirements, I continue to do some CLE.

Conference/CLE Name

Date(s)

- | | |
|---|----------|
| (a) Old Republic Title Insurance Seminar | 10/14/15 |
| (b) 2015 Social Security Representatives' Workshop | 09/30/15 |
| (c) Old Republic Title Insurance Ethics Seminar | 12/06/12 |
| (d) Ethics on the River | 06/22/12 |
| (e) SC Conference on Lawyer and Judicial Conference | 11/01/11 |
| (f) Family Law Training | 04/01/11 |

Mr. Price reported that he has taught the following law-related courses:

- (a) I was an Associate Professor at Newberry College for the years 1976, 1977, 1979 and 1980.
 - (1) Business Law, a 3 hour course survey of civil law.
 - (2) Real Estate and Insurance Law, a 3 hour course focused on South Carolina real estate law and life insurance and property casualty insurance.
- (b) I was in the Judge Advocate section of the National Guard. One of the duties was to help prepare guardsman for deployment.
Pre-mobilization lectures. These lectures focused on the need and application of powers of attorney, last will and

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testaments, living wills, health care powers of attorney. The lectures also taught principles of real estate law, probate and estate law, domestic relations, and insurance law.

Mr. Price reported that he has published the following:

- (a) Information for Troop Deployments Outside the Continental United States; February 3, 1990. This is a 120 compilation of guidelines for troops deployed in fifteen European countries and two Mid-eastern countries. I edited, compiled, indexed and formatted the pamphlet to be distributed through channels in the South Carolina Army National Guard.

(4) Character:

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

The Commission also noted that Mr. Price 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. Price reported that his rating by a legal rating organization, Martindale-Hubbell, is High Professional Achievement; BV 4.4/5.1.

Mr. Price reported the following military service:

- (a) US Army from September 1, 1974, to November 30, 1974
(Active duty for training)
- (b) South Carolina Army National Guard from February 1976 to October 1, 1995
Lieutenant Colonel, Social Security number was used in lieu of serial number, Retired (after twenty plus years of service), Honorable discharge

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Mr. Price reported that he has held the following public office:

(a) Newberry County Election Commission and Registration Board. Appointed on January 8, 1999, and continue to serve. I have typically timely filed my report with the State Ethics Commission during this time; however, one year I did not file on time because of my confusion as to which year to file, i.e. unlike an income tax return which is filed for the previous year, the Ethics Report is required to be filed before the calendar year ends. I was not subject to a penalty for the late filing.

(6) Physical Health:

Mr. Price appears to be physically capable of performing the duties of the office he seeks.

(7) Mental Stability:

Mr. Price appears to be mentally capable of performing the duties of the office he seeks.

(8) Experience:

Mr. Price was admitted to the South Carolina Bar in 1974.

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

(a) December 1974 to May 30, 1976: Associate attorney in the Law Office of Richard M. Kenan. I represented clients in General Sessions and Common Pleas matters. I researched and prepared two separate briefs for appeals to the South Carolina Supreme Court.

(b) June 1, 1976 to Date: Sole practitioner. The practice consists of both an office practice and a trial practice. The office practice consists of real estate closings, drafting and supervising the execution of documents including, but not limited to, wills, trusts, powers of attorney, health care powers of attorney, deeds, promissory notes, real estate mortgage, prenuptial agreements, contracts of sale, bills of sale, living wills, and specialized contracts and probate and estate work. I have spent much time counseling and advising clients as to specific legal problems.

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The trial practice consists of appearances in Common Pleas Court, Family Court, Magistrate Court, City Recorder's Court, Office of Disability Adjudication and Review (Social Security Disability cases), South Carolina Court of Appeals, and South Carolina Supreme Court. Over the last ten years, I have done very little criminal work.

Mr. Price further reported regarding his experience with the Family Court practice area:

My domestic practice started immediately after beginning to practice law. My first domestic cases were before the State had a uniform Family Court system. Judge Francis Nicholson, Judge of the Eighth Judicial Circuit, would conduct Common Pleas for domestic matters on specified Saturday mornings. Otherwise, domestic matters were squeezed into the Common Pleas docket or referred to other lawyers as special referees. Non-support cases were handled in General Sessions Court. I have handled hundreds of cases in Family Court. Some cases went to trial; however, many cases were settled after negotiations. I have been appointed on abuse and neglect cases, juvenile justice cases and I have been appointed as a Guardian Ad Litem in custody cases. I have taken and completed the training in Family Court Mediation. I have handled divorce cases, separation cases, equitable division cases, child custody cases, child support cases, adoption cases, abuse and neglect cases, and DJJ matters. I am intimately familiar with the fear, frustration, anxiety, humiliation, and sometimes terror in the hearts and minds of Family Court litigants. I am also familiar with the lawyering difficulty in bringing a case to trial. This experience gives me the ability to make fair and equitable decisions.

Mr. Price reported the frequency of his court appearances during the past five years as follows:

- (a) Federal: My experience in Federal Court in the last five years is limited to Social Security Disability appeals. I have filed three (3) cases in Federal District

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Court; one of which was appealed to the Fourth Circuit Court of Appeals. In these cases, the issues were submitted by briefs. No physical appearance was had before a live judge or panel.

- (b) State: I have an active practice before all courts (excepting General Sessions). I could only quesstimate an answer. I have had dozens of appearances in the past five years.
- (c) Other: n/a

Mr. Price reported the percentage of his practice involving civil, criminal, and domestic matters during the past five years as follows:

- (a) Civil: 25%;
- (b) Criminal: 0%;
- (c) Domestic: 40%;
- (d) Other: 35%.

Mr. Price reported the percentage of his practice in trial court during the past five years as follows:

- (a) Jury: 25%;
- (b) Non-jury: 75%.

Mr. Price provided that he most often served as sole counsel.

The following is Mr. Price's account of his five most significant litigated matters:

- (a) Gilliam v. Foster, 75 F.3d 881 (4th Cir. (S.C.) January 29, 1996); 63 F.3d 287 (4th Cir. (S.C. Aug 08, 1995). This is a criminal murder case. I was appointed to represent one of the three defendants. One of the defendants was the son of a sitting county councilman. The jury had been picked, seated and sworn in. The State had presented several witnesses. A SLED forensic investigator had taken numerous photographs of the crime scene. Some of these photographs, but not all, had been introduced into evidence by the SLED investigator. After the investigator's testimony, the Court recessed for lunch. The photographs that had not

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been introduced into evidence were left on the witness stand. The bailiff put the photographs on the rail of the jury box. When the jury came back from lunch, they viewed photographs that had not been entered into evidence. On the State's motion, the trial judge granted a mistrial. The case was rescheduled for retrial. An appeal was filed in the State Court system under theory of double jeopardy and a simultaneous action was filed in Federal District Court. Both the South Carolina Court of Appeals and the Federal District Court refused to find that a retrial would be double jeopardy. The District Court decision was appealed to the Fourth Circuit. The retrial began. After several State witnesses had testified, an Order was issued by the Fourth Circuit to stop the trial. The case was scheduled to be heard before the Fourth Circuit *en banc*. The Fourth Circuit found that jeopardy had attached and the retrial would be unconstitutional. Although the State filed a petition for certiorari, such petition was denied by the United States Supreme Court. The importance of this case is that it further defined and refined double jeopardy principles.

- (b) Shelton v. Oscar Mayer Foods Corp., 325 S.C. 248, 481 S.E.2d 706 (S.C. 1997); 319 S.C. 81; 459 S.E.2d 851 (S.C.App. 1995). This is a wrongful termination case. Plaintiff was accused (wrongfully) of smoking marijuana in the company parking lot after his shift. Defendant was fired. After three days of trial before a jury, the trial court granted defendant employer's motion for directive verdict. The Court of Appeals affirmed the lower court. The South Carolina Supreme Court remanded the case for a new trial confirming that in South Carolina there is a covenant of good faith and fair dealing in every employment contract.
- (c) Brooks v. Kay, 339 S.C. 479, 503 S.E.2d 120 (S.C. Mar. 27, 2000). This is an action to set aside a deed. Plaintiff was the only heir of grantor. Grantor was an elderly lady who transferred 200 plus acres to defendant. Defendant was a stranger to grantor who met her while hunting her land. He befriended her, did favors for her, and purchased one or two lots from her. Defendant then presented grantor with a deed transferring the property

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to himself. The deed was executed in the office of the Clerk of Court for Newberry County. Defendant was present during the execution. When grantor returned to her home, she called the Clerk's office and said "Do not record the deed." Defendant had obtained a copy of the executed deed before he left the Clerk's office. After grantor's death, during the probate process, defendant submitted the copy of the deed as proof of the title transfer and ownership. The matter was tried in Common Pleas, judge only. The trial court affirmed the transfer. The Court of Appeals upheld the trial court. The South Carolina Supreme Court reversed. The Court addressed the issues of the dead man's statute, the existence of a confidential relationship and its impact on grantor, and undue influence. This case contained many factual issues that will be helpful for those persons trying to protect the elderly from being financially duped.

- (d) Hancock v. Mid-South Management Co., Inc., 673 S.E.2d 801, 381 S.C. 326 (S.C. 2009); 370 S.C. 131, 634 S.E.2d 12 (S.C.App. Jun 12, 2006). This is a slip and fall case. Plaintiff tripped over a small pot hole in the parking lot of a newspaper company when she was attempting to purchase a paper from a newspaper box. The plaintiff was elderly. When she fell, she damaged her shoulder. The case was dismissed on defendant's motion for summary judgment. The Court of Appeals affirmed. The South Carolina Supreme Court reversed finding that this was a matter to be determined by a jury on the facts which not only included the condition of the parking lot surface but also the considerations of any duty defendant may owe an invitee because of any physical limitations. The case was later tried by a jury and a verdict rendered for plaintiff (Plaintiff had died during the appellate process).
- (e) Herbert S. Fulmer, III v. Oscar Mayer Foods Corporation, d/b/a Louis Rich, a wholly owned subsidiary of Philip Morris Companies, Inc., 1994CP36-87. Mr. Fulmer was a quality assurance supervisor for defendant corporation. Plaintiff supervised one person. Both working on a new

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computer system to help establish recipes but also to insure the computer system was secure. The employee worked first shift and plaintiff worked second shift. On a particular night, first shift employee had failed to leave the password to plaintiff. Plaintiff attempted to contact first shift employee by telephone numerous times. Plaintiff was able to by-pass the password system and get into the proper program so that he could do his work that night. The next day, plaintiff was fired. Defendant corporation took out a criminal warrant for computer hacking. Plaintiff was found not guilty in the criminal case. Plaintiff then brought a civil action against Louis Rich for false arrest, breach of covenant of good faith and fair dealing, and actual and punitive damages. The jury awarded plaintiff a verdict of \$200,000.

The following is Mr. Price's account of five civil appeals he has personally handled:

- (a) Daniel v. White et al., 272 S.C. 477, 252 S.E.2d 912 (S.C. 1979).
- (b) Austin v. Taylor, 284 S.C. 414, 326 S.E.2d 656 (S.C. 1985).
- (c) Nelums v. Cousins, 304 S.C. 306, 403 S.E.2d 681 (S.C.App. Apr. 22, 1991).
- (d) Shelton v. Oscar Mayer Foods Corp., 325 S.C. 248, 481 S.E.2d 706 (S.C. 1997); 319 S.C. 81; 459 S.E.2d 851 (S.C.App. 1985).
- (e) Brooks v. Kay, 339 S.C. 479, 530 S.E.2d 120 (S.C. Mar. 27, 2000).

Mr. Price reported that he has not personally handled any criminal appeals.

Mr. Price further reported the following regarding unsuccessful candidacies:

- (a) County Council – 1980. This was a three person race. I missed the run-off by 19 votes.
- (b) City Council – 1995. This was a three person race. I was in the run-off but lost the race.
- (c) Family Court Judge Eighth Judicial Circuit At-Large Seat – 2012. I withdrew.

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- (9) Judicial Temperament:
The Commission believes that Mr. Price's temperament would be excellent.
- (10) Miscellaneous:
The Piedmont Citizens Committee on Judicial Qualifications found Mr. Price to be "Well Qualified" in the evaluative criteria of professional and academic ability, character, reputation, experience, and judicial temperament, and "Qualified" in the remaining evaluative criteria of constitutional requirements, ethical fitness, physical health, and mental stability.

Mr. Price is married to Ann Renwick Price. He has three children.

Mr. Price 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 Association for Justice
- (d) American Bar Association
- (e) American Association for Justice

Mr. Price provided that he was a member of the following civic, charitable, educational, social, or fraternal organizations:

- (a) Aveleigh Fellowship of Presbyterians, Newberry, SC, Former Elder, Former Deacon, Former Coach for Church League Basketball team ages 8 through 11.
- (b) Rotary Club of Newberry, Newberry, SC, former President, Rotarian of the Year and Paul Harris Fellow
- (c) Former Assistant Scout Master of Boy Scout Troop No. 1, Assistant Scout Master of the Year, Blue Ridge Council.
- (d) Former Chairman of the Newberry County Red Cross Chapter.
- (e) Former Chairman of the Newberry County Commission on Alcohol and Drug Abuse.
- (f) Former Chairman of the Newberry County Family YMCA Board.
- (g) Former member of the Exchange Club of Newberry.
- (h) Current Chairman of the Newberry County Election Commission and Registration Board.

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Mr. Price further reported:

As a sole practitioner in a small town, I have represented people from all walks of life. I understand cash flow problems. I have numerous clients who pay me “when they can”. I understand people who have financial difficulties. Dr. Lewis P. Jones, one of my history professors, introduced me to the concept of noblesse oblige (the obligation of the nobility). My personal philosophy is that the world should be a better place because of my efforts. I have always been concerned about taking care of “the little people”. I believe everyone should be equal under the law. I think all persons should be treated with honor and dignity.

(11) Commission Members’ Comments:

The Commission commented that Mr. Price has a great depth of experience as an attorney and is known to handle cases well.

(12) Conclusion:

The Commission found Mr. Price qualified and nominated him for election to the Family Court, Eighth Judicial Circuit, Seat 2.

**Huntley Smith Crouch
Family Court, At-Large, Seat 7**

Commission’s Findings: QUALIFIED AND NOMINATED

(1) Constitutional Qualifications:

Based on the Commission’s investigation, Ms. Crouch meets the qualifications prescribed by law for judicial service as a Family Court judge.

Ms. Crouch was born in 1972. She is 44 years old and a resident of Lexington, South Carolina. Ms. Crouch 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 1998.

(2) Ethical Fitness:

[SJ]

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The Commission's investigation did not reveal any evidence of unethical conduct by Ms. Crouch.

Ms. Crouch 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. Crouch reported that she has made \$113.72 in campaign expenditures for postage and stationery.

Ms. Crouch 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. Crouch 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. Crouch to be intelligent and knowledgeable. Her performance on the Commission's practice and procedure questions met expectations.

Ms. Crouch described her continuing legal or judicial education during the past five years as follows:

<u>Conference/CLE Name:</u>	<u>Date:</u>
a. Divorce Litigation from Start to Finish	08/12/11
b. Handling Abuse and Neglect Cases	11/18/11
c. Lawyer Mentoring Program	03/01/13
d. The 2013 Guardian ad Litem Training Update	03/11/13
e. 2013 Family Court Bench Bar	12/06/13
f. Attorney Ethics CLE	12/17/13
g. Solo and Small Firm's Guide to Maximizing Cash Flow	01/10/14
h. Solo and Small Firm's Guide to Staffing Problems	01/10/14

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- i. 2014 Guardian ad Litem Training Update 01/31/14
- j. Family Court Mediation Training 07/10/14
- k. As Family Court Judges See It: Top Ten Mistakes Attorneys Make 11/07/14
- l. South Carolina Family Court Bench/Bar 12/04/15
- m. Children's Law Committee, SC Bar Convention 01/23/16

Ms. Crouch reported that she has taught the following law-related courses:

- (a) I lectured at the South Carolina Bar Convention 2016 in Charleston, South Carolina as part of the Children's Law Committee CLE. I presented on the topic of Father's Rights, Alienation, and Ethical considerations for practicing family law attorneys.
- (b) The Honorable Anne Gue Jones has invited to speak at the December 2016, Family Court Bench/Bar CLE on the issues of Guardians ad litem in Family Court.

Ms. Crouch reported that while she has not written any books or articles, but as a research assistant for David G. Owen, Carolina Distinguished Professor of Law, she assisted with research, writing chapters and editing Owen, Products Liability Law, West, 2005.

(4) Character:

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

The Commission also noted that Ms. Crouch 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. Crouch reported that she is not rated by any legal rating organization.

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Ms. Crouch reported that she has never held a public office.

(6) Physical Health:

Ms. Crouch appears to be physically capable of performing the duties of the office she seeks.

(7) Mental Stability:

Ms. Crouch appears to be mentally capable of performing the duties of the office she seeks.

(8) Experience:

Ms. Crouch was admitted to the South Carolina Bar in 1998.

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

1998-1999 Law Clerk to the Honorable Wyatt T. Saunders, Circuit Court Judge, Eighth Judicial Circuit

1999-2010 Brown, Jefferies & Boulware; contract attorney with general practice firm.

2010-2014 Cofield Law Firm: associate attorney hired to create Family Law division in general practice firm.

2014-2016 Cofield Law Firm: partner in five attorney general practice firm heading up Family Law division.

2016-present Law Offices of Huntley S. Crouch, LLC: member, solo practice firm practicing in the area of family law and family court mediations.

Ms. Crouch further reported regarding her experience with the Family Court practice area:

Divorce and Equitable Division of Property: I have had the opportunity to handle divorce actions involving simple divorces with very little property division to highly contested actions involving grounds for divorce and division of assets exceeding a million dollars. I have brought and defended actions involving military divorces and division of property in military divorces. I have handled divorces involving all statutory grounds except for the ground of desertion. Several of the divorce actions in which I have been involved have involved issues in Magistrate's Court, Probate Court, Bankruptcy Court, and Social Security Disability, and my background working in two general practice law firms has aided me in understanding the issues to be

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addressed in those legal arenas. Additionally, in multiple cases, I have been required to attend domestic abuse hearings and file for ex parte emergency or expedited relief.

Child Custody: Typically, a majority of the divorce cases that I have handled also involved issues of child custody and children's issues. I have represented clients whose children ranged from infants to teens, and I have represented parents of adult disabled children and special needs children. I have represented military parents in custody cases. Many of my cases have involved post-divorce modifications based on a substantial change in circumstances. In addition to bringing and defending cases, I also serve as a Guardian ad litem. As such, I have addressed issues in private cases involving drug and alcohol abuse, parental alienation, mental health concerns, physical abuse and sexual abuse.

Adoption: With regard to adoption cases, I have served as Guardian ad litem and as counsel for a party in private adoption cases and step- parent adoption cases, involving termination of parental rights, both contested and uncontested. One of the more interesting cases that I handled was an adult adoption case in which an adult wished to be adopted by his former step-father and his former step-father's current wife. The case involved issues of notice and military issues.

Abuse and Neglect: I have been appointed in abuse and neglect cases and in those cases have addressed issues such as custody, visitation, child support, and termination of parental rights. Several interesting issues which have been raised and/or litigated in my representation of parties in abuse and neglect cases include: jurisdiction under the UCCJEA and the impact of emergency jurisdiction when South Carolina is not a home state; appointment of an attorney for the minor children when the recommendation/investigation of the Guardian ad litem does not track with the children's wishes under S.C. Code Ann Section 63-7-1620 (2); motion to remove the Guardian ad litem; and motions to return the children and dismiss the action for failure to prosecute and timely comply with statutory requirements in abuse and neglect cases.

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Juvenile justice/juveniles: I have represented parents of a juvenile and as a result have been involved with DJJ, the solicitors and public defenders, and other state agencies. I have attended hearings related to that action, including detention hearings, adjudication and sentencing hearings, and dispositional hearings. On several cases, I have advised clients regarding truancy issues and hearings. Additionally, my experience and service as a Guardian ad litem in private cases and as representative for parents in abuse and neglect cases has given me insight into some of the concerns and issues arising under the Juvenile Justice Code, ranging from drug and alcohol use by a minor to reports and evaluations relating to the juvenile. I have taken the opportunity to observe, with the Court's permission, juvenile proceedings to better understand this area of the law and the procedure related to it in Family Court.

Ms. Crouch reported the frequency of her court appearances during the past five years as follows:

- (a) Federal: Previously, I appeared for Administrative Hearings before a Federal Agency on average one to two times per year;
- (b) State: My appearance in state court varies, but on average, primarily with regard to my practice in Family Court, I appear anywhere from one to four times a week. There are weeks when I may not have a hearing and weeks where I may have up to six hearings scheduled.

Ms. Crouch reported the percentage of her practice involving civil, criminal, and domestic matters during the past five years as follows:

- (a) Civil: 8%;
- (b) Criminal: 0%;
- (c) Domestic: 90%;
- (d) Other: 2%.

Ms. Crouch reported the percentage of her practice in trial court during the past five years as follows:

- (a) Jury: 1%;

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(b) Non-jury: 99%.

Ms. Crouch provided that, in cases brought in Circuit Court, she most often served as associate counsel. Ms. Crouch also provide that in cases brought in Family Court she most often served as sole counsel and chief counsel. Finally, Ms. Crouch provided that in appellate cases, she most often served as co-counsel.

The following is Ms. Crouch's account of her five most significant litigated matters:

(a) Wilson v. Dyess

This was a post-divorce action in which I represented the Father. The case began as a contempt action which was tried in family court. Issues involved in the contempt portion of the case related to the adult disabled child's social security benefits and accounting as required under the prior order. The father prevailed. It became clear that the adult disabled child's needs were not met, and a separate action was brought in Probate Court. The results of the Probate action were also favorable to Father, requiring a third action in Family Court to modify custody of a second child and address issues of child support. Mother later filed for bankruptcy which impacted the financial matters related to the Family Court and Probate Court cases. This case is significant from a legal standpoint, because it spanned three courts and had issues of federal law involved in the contempt action. Without being able to represent the client fully in both family and probate court, I would not have been able to achieve the satisfactory results that were obtained. Interestingly, the Family Court judge in the contempt action refused to order that the Social Security disability benefits for the minor child be redirected to be paid to the Father, citing his inability to order a federal agency to take that action. As noted below in the Fink v. Fink case, a Family Court judge can issue such an order. From an emotional standpoint, this case will always hold a special meaning for me, because of the family and the special needs child. The result obtained was necessary and fulfilling.

(b) Fink v. Fink

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This case involved a divorce on grounds of adultery, equitable apportionment, custody of two small children, visitation, and child support. This case is significant, because the Husband/Father had a personal injury settlement and worker's compensation settlement that were at issue in the case. He also had Social Security disability benefits. Father failed to comply with the Court's orders, and a contempt action was tried in the midst of the divorce litigation. Father wasted assets. Ultimately, Mother received custody of the children, and Father was denied any contact or visitation with them after a contested hearing. This case is significant, because the only funds that were available to Mother for child support was Father's social security disability check. Father would not comply with the order of the court to pay child support through the Clerk of Court and was evading service for additional contempt charges. I filed a motion on behalf of Mother to have Father's disability check garnished and redirected to the Clerk of Court for payment of Father's child support and arrears. The sitting Family Court judge, who had been a judge for more than twenty years, stated he had never had an attorney ask for that relief. He was skeptical that the federal agency would comply with a state court judge's order; however, he issued an order that Social Security Administration redirect Father's disability check to the account established with the Clerk of Court for payment of child support. Social Security Administration accepted the order, and Mother began receiving the disability payments as child support.

(c) Brown v. Odom

This divorce action is currently on appeal. Throughout the litigation, court appearances included temporary hearings, a contempt trial, issuing bench warrants, vacating bench warrants, compelling discovery and mediation, and a final merits hearing. The issues at trial involved equitable apportionment, alimony, and attorney fees. The Court ruled in favor of Plaintiff, determining that two businesses, valued at greater than \$1 million and owned prior to marriage, were transmuted into marital property and as such were

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subject to equitable division. Additionally, it was discovered that Defendant transferred significant assets after separation but before filing without Plaintiff's knowledge, making the date which the Court determined the marital estate significant. The Court ruled in favor of Plaintiff, finding that the disposed of assets should be included in the marital estate. More than \$30,000.00 in attorney fees were awarded to Plaintiff. Defendant filed for bankruptcy after trial but before the Final Decree was issued, staying the Family Court's ability to issue a ruling. The parties litigated issues in bankruptcy, and ultimately, after multiple hearings and motions, Defendant's bankruptcy action was dismissed by the Bankruptcy Court. The Family Court judge was able to issue the final decree more than six (6) months post-trial. Defendant filed to reconsider and appealed. As part of the appeal, Plaintiff/Respondent raised the little used Fugitive Disentitlement Doctrine, as Defendant had an outstanding bench warrant related to the Family Court case, yet, he evaded service of the warrant. Defendant was forced to turn himself in to avoid the dismissal of his appeal. The appeal is still pending. This case is significant on many levels. It illustrates the need for an attorney to understand all areas of the law, especially Bankruptcy and the impact it has on domestic litigation. Additionally, it further illustrates the finer points of South Carolina case law as to equitable apportionment and the significance of the date to determine the marital estate for valuation purposes. Finally, this case illustrates the proper use of the Form 4 in Family Court, which is rarely utilized properly by practitioners.

(d) DSS v. Doe

In 2012, I was appointed to represent Mother in an Abuse and Neglect case. This case was significant in many aspects, not the least of which is the importance of the statutory time constraints mandated in DSS cases. Those time constraints were not followed in this action, and the children remained in foster care for more than four years. The Court acknowledged that the delays in the litigation were not attributable to Mother. At the last

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judicial review hearing, the Court ordered that Mother be reunified with the children. This was a hard fought case, and Mother never stopped fighting to have her children returned to her. This also involved issues of the application of the UCCJEA. Mother was also successful in having an attorney appointed for her minor children, when the Guardian ad litem did not promote the children's desires. From a practice standpoint, as a result of my diligent representation of Mother in this case, I have been retained to assist other parents in DSS actions to successfully have their children returned. One such case was a young father who traveled from South Dakota to South Carolina. He hired me the day he arrived in South Carolina, and a few weeks, he was on a plane with his young son. I was hired by Grandparents who live in Virginia to successfully gain custody of their grandson.

(e) Gantt v. Chavez

This case continues to be one of my most fulfilling cases. I represented Father who was in the military. He and Mother had one child. Father had standard visitation. The case began as a modification action, with Father wanting an additional day with his daughter and wanted Mother to assist in transporting the child for the visitation. Mother was not cooperative, and it quickly became evident that issues of alienation were prevalent in this matter. As the case progressed, Father was assigned out of state. He went from every other weekend visitation to having the child two consecutive weeks every six weeks. Father filed a second modification approximately one year later, as the child was starting school and had developed medical issues that Mother did not manage. Custody was transferred to Father on a temporary basis. The Guardian ad litem was very involved. Mother continued to engage in alienation of Father, and Father was ultimately able to gain full legal and physical custody of the child who still lives with him out-of-state. Father continues to provide updates to me about his child, along with pictures of her milestones.

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Ms. Crouch reported that she has assisted in writing briefs for multiple appeals, and is co-counsel in a current appeal from Family Court. There are no reported cases to date.

Ms. Crouch reported that she has not personally handled any criminal appeals.

Ms. Crouch further reported the following regarding an unsuccessful candidacy:

I ran for Family Court for a Lexington County seat in Spring 2014. I was found qualified, but not nominated.

(9) Judicial Temperament:

The Commission believes that Ms. Crouch's temperament would be excellent.

(10) Miscellaneous:

The Midlands Citizens Committee on Judicial Qualifications found Ms. Crouch to be "Well Qualified" in the evaluative criteria of ethical fitness, professional and academic ability, character, reputation, experience, and judicial temperament, and "Qualified" in the remaining evaluative criteria of constitutional qualifications, physical health, and mental stability. In comment the Committee noted "We were impressed with Ms. Crouch the last time we interviewed her, and we are still impressed. She received excellent references from impartial and knowledgeable sources. We were especially impressed with the breadth of her experience. We believe Ms. Crouch is an outstanding candidate for the Family Court bench."

Ms. Crouch is married to Charles "Chuck" Martin Crouch Jr. She has three children.

Ms. Crouch reported that she was a member of the following Bar associations and professional associations:

- (a) South Carolina Bar Association;
- (b) Lexington County Bar Association;
- (c) South Carolina Bar, Judicial Qualifications Committee Member;
- (d) South Carolina Bar, Children's Law Committee and legislative sub-committee member.

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Ms. Crouch provided that she was a member of the following civic, charitable, educational, social, or fraternal organizations:

- (a) School Improvement Council, Lexington 1 School District; 3 years
- (b) Lexington United Methodist Church, Snack Sacks program; nationally recognized in People Magazine's Allstars Among Us campaign. Also was the recipient of a grant to help expand the program after submitting a favorable application. Currently send home approximately 290 bags of healthy snacks each weekend for school aged children in need.
- (c) Lexington Life magazine's Best in Lexington Family Lawyer; 3 years

Ms. Crouch further reported:

I grew up playing in the law library, back when there were such things, in my father's law firm. I would pull the books from the shelves, pretending that I was a great lawyer like my father, preparing to argue a landmark case. That was in the fifth grade. As a child, I thought my father was the greatest attorney. As an adult, I still believe that, but now I understand that it is not his skill at arguing a case before a jury which makes him great, but it is his approach to his practice and his treatment of his clients. Even after practicing for over forty years, he still approaches every case as if it is the most important case and every client as if he or she is the most important client. All of this is to say that as an attorney, I mimic the very best attributes that I learned from my father. I treat my clients with respect. I approach every case, no matter the size, no matter the issue, very seriously. I am sensitive to the fact that my clients have entrusted me with some of the most important aspects of their lives—children, homes, futures. Recently a judge informed my client that, as always, your attorney is well-prepared. That is one of the greatest compliments I could have. I am a planner. I planned on finishing college in three years. I planned on practicing law with my father, who as I stated above, is the greatest teacher and mentor, while I learned to be

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the kind of lawyer I am and while I raised my children. I planned on practicing law and establishing myself in the community. And, I planned on becoming a judge.

In addition to being influenced in my career by my father, I was also influenced by the late Honorable Wyatt T. Saunders. I served as his very first law clerk when he took the bench in Circuit Court. My employment with Judge Saunders created in me a great respect for the behind-the-scenes in a courthouse. I understand the importance of keeping a docket and being ever mindful of the Court's time and, likewise, the attorneys' and litigants' time. I understand taking matters under advisement and filing the MUA reports. I created a system of keeping up with due dates for orders. I know the organizational pitfalls to avoid.

Perhaps the lesson that will serve me best as a judge, though, is that one garners respect when one gives respect. As a judge, I want the litigants and their representatives to leave the courtroom knowing they were treated respectfully and fairly by an ethical and knowledgeable judge. I believe my experience as a researcher, writer, student, advocate, Guardian ad litem, mediator, and philanthropist lends itself to my being that judge.

(11) Commission Members' Comments:

The Commission was impressed with Ms. Crouch's intellect, enthusiasm, and experience. They were further impressed that she set up a mock juvenile case with local practitioners in order to gain experience in that realm.

(12) Conclusion:

The Commission found Ms. Crouch qualified and nominated her for election to Family Court, At-Large, Seat 7.

**Thomas (Tommy) Tredway Hodges
Family Court, At-Large, Seat 7**

Commission's Findings: QUALIFIED AND NOMINATED

(1) Constitutional Qualifications:

[SJ]

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Based on the Commission's investigation, Mr. Hodges meets the qualifications prescribed by law for judicial service as a Family Court judge.

Mr. Hodges was born in 1959. He is 58 years old and a resident of Greenville, 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 1987.

(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 made the following campaign expenditures: Approximately \$75.00 in postage; \$12.19 for a name badge; and 78.42 for stationery.

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.

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Mr. Hodges described his continuing legal or judicial education during the past five years as follows:

<u>Conference/CLE Name</u>	<u>Date(s)</u>
(a) Competitive Edge: Law Practice Risk Management Part 2	6/7/16
(b) Competitive Edge: Law Practice Risk Management Part 1	6/6/16
(c) Data Security and Privacy Risks for Law Firms	6/3/16
(d) Greenville County Bar "Year End" CLE	2/12/16
(e) Hot Tips for the Coolest Domestic Law Practitioners	9/25/15
(f) Tips, Tricks and Tools for Mediation	9/18/15
(g) Greenville County Bar "Year End" CLE	2/13/15
(h) Family Court Bench Bar	12/5/14
(i) 2014 Hot Tips from the Coolest Domestic Law Practitioners	9/26/14
(j) A Practical Guide to Civil and Criminal Contempt in SC	2/17/14
(k) Greenville County Bar "Year End" CLE	2/14/14
(l) 2013 Hot Tips from the Coolest Domestic Law Practitioners	9/27/13
(m) Greenville County Annual CLE Conference	2/15/13
(n) Cell Phone Forensics	2/11/13
(o) Grantee Gathering	12/11/12
(p) Hot Tips from the Coolest Domestic Law Practitioners	9/28/12
(q) 2011 Family Court Bench/Bar	12/2/11
(r) What Family Court Judges Want You to Know (moderator)	2/18/11

Mr. Hodges reported that he has taught the following law-related course:

I led the program titled "What Family Court Judges Want You to Know" held in Greenville on 2/18/11. This seminar involved a panel of eight family court judges speaking on a variety of family court issues. I moderated the judges' discussions and prepared their materials.

He reported that he has not published any books or articles.

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- (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. He 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 he is rated 'AV' by Martindale-Hubbell.

Mr. Hodges reported that he was rated Super Lawyer in the area of Family law 2008 and 2009

Mr. Hodges reported that he has never held a public office.

- (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 1987.

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

- (a) Haynsworth, Baldwin, Miles, Johnson, Greaves and Edwards. Associate from August 1987 to December 1994. Partner from December 1994 to May 2003. The firm was a labor and employment firm representing employers exclusively. As a new associate I primarily did legal research for all types of labor and employment cases pending before state and federal courts and various

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state and federal agencies. Over time I began to make appearances in those same forums at all times representing management exclusively. I participated in several breach of contract and unlawful discharge trials. I reviewed employer policies and documents to ensure legal compliance and I regularly provided legal training to employers concerning a wide variety of employment matters. In the early 1990s my work became more focused on traditional labor matters, including union elections, unfair labor practices and labor arbitrations. I traveled the country extensively representing employers in labor disputes and union campaigns. I represented companies before the National Labor Relations Board from Alaska to Florida and from New Jersey to California and most states in-between. I handled hearings before NLRB hearing officers, Administrative Law Judges and arbitrators. Those hearings were always non-jury and typically lasted anywhere from 1 day to many days. The hearings involved taking testimony, cross-examination of witnesses, introducing and objecting to evidence and drafting briefs for the judge or hearing officer. The nature of my practice remained primarily NLRB related until my resignation from the firm in May 2003.

- (b) Robertson, Hodges and Coleman, Partner October 2003 to 2005. In October 2003 Marsh Robertson (now Judge Robertson), Ann Coleman, and I formed Robertson, Hodges and Coleman. Our practice was limited to family court matters exclusively. Coleman left the practice in 2005.
- (c) Robertson and Hodges 2005 to February 2010. In 2005 Marsh Robertson and I formed Robertson and Hodges, LLC. We continued to practice exclusively in Family Court. Robertson was elected to the Family Court Bench in 2010 and our partnership was dissolved.
- (d) Thomas T. Hodges, P.A. February 2010 to present. I still limit my practice to Family Court matters.

Mr. Hodges reported the frequency of his court appearances during the past five years as follows:

- (a) Federal: 0%;

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(b) State: 100%.

Mr. Hodges 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%
- (d) other: 0%

Mr. Hodges reported the percentage of his practice in trial court during the past five years as follows:

- (a) Jury: 0%;
- (b) Non-jury: 100%.

Mr. Hodges provided that he most often served as sole counsel.

The following is Mr. Hodges' account of his five most significant litigated matters:

- (a) Bridges v. Bridges, 2012-DR-23-2890. I represented the Plaintiff/Father in this custody modification case that was tried over a 4 day period. This case was filed after the mother made false allegations of sexual abuse against the father. The case was pending for two years. There were multiple motions, lengthy depositions, psychological evaluations as well as an independent DSS action. Significantly the mother had been awarded full custody of the child in the parties' divorce case only three months before this action was brought. The mother and child were living in Lexington and the father was living in Greenville. After 4 days of trial the father was awarded primary placement and the child now resides with him in Greenville.
- (b) Jones v. Johnson, 2006-DR-23-968. I represented an unwed father in this case. The child's parents lived in Florida when he was born. Shortly after the child's birth the mother brought the child to South Carolina. Several weeks later the mother died. The maternal grandmother brought an action in South Carolina for custody of the child. The father brought an action in Florida for the return of the child. The case involved

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the Uniform Child Custody Jurisdiction Act as well as South Carolina's "de facto" parent statute that had just been enacted, among other issues related to the custody of the child. Several hearings were held with judges from both states conferring over jurisdiction and factual issues. The case was ultimately resolved without a trial with the father gaining custody of his child and returning him to Florida.

- (c) Stiggers-Smith v. Smith, Op. No. 2009-UP-105 (S.C. Ct. App. dated March 2, 2009). I represented the defendant in this common-law marriage case. The plaintiff sought the establishment of a marriage, a divorce, spousal support and equitable division. The plaintiff was given nominal support at the temporary hearing and the case was bifurcated allowing the issue of the marriage to proceed separately. A one-day trial resulted in the plaintiff winning her argument that a marriage existed. This case was significant to me and my practice as I necessarily had to do extensive research on the issue of common law marriages which has benefited me in later cases. It also reaffirmed the importance of the credibility of witnesses when faced with facts that could be viewed from different perspectives.
- (d) Williams v. Gilmore, 2013-DR-23-4519. I represented the Plaintiff/Father in this custody modification case that ultimately went to trial. The case involved three children. The case involved allegations of drug use, physical neglect and independent DSS actions. There were numerous contempt hearings and motions in this case. My client was ultimately awarded custody of the children at the conclusion of the trial.
- (e) NLRB v. Minette Mills. This case is not reported however earlier Minette Mills cases are reported and are pertinent to understanding the importance of this case. Minette Mills was a textile mill located in Grover, North Carolina that was accused of unlawfully terminating a man and his wife during a union campaign in 1990. In 1991 the NLRB ruled that that the company had acted unlawfully and ordered the company to reinstate the employees with back pay. Minette Mills, Inc., 305

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NLRB 1032 (1991). I was one of two trial lawyers in that case. The Fourth Circuit Court of Appeals upheld the NLRB's order. Minette Mills, Inc. v. N.L.R.B., 983 F. 2d 1056 (4th Cir. 1993). The company reinstated the employees but the parties could not agree on the amount of back pay owed to them. A two day hearing was held on the back pay issue in January 1994. I was the sole attorney involved in that trial and the subsequent appeal to the full NLRB. Minette Mills, Inc., 316 NLRB 1009 (1995). The case I will remember as being significant followed when the employees were terminated a second time and charges of unlawful discrimination and retaliation were filed again by the NLRB. The significance is that the trial on the second discharges was held before the same judge that decided the back pay case and the company was under the threat of contempt for non-compliance with the Fourth Circuit order. Despite the stacked deck of the case, the judge ruled that the company had not violated the law and dismissed the complaint. To my knowledge the NLRB did not appeal that decision.

Mr. Hodges reported the following experience involving civil appeals:

I have not personally handled a civil appeal since practicing family law. While I was listed as an attorney of record in Stiggers-Smith v. Smith, Op. No. 2009-UP-105 (S.C. Ct. App. dated March 2, 2009) and tried the case at the trial level, I did not handle that appeal by myself.

I was co-counsel in Johnson v. J. P. Stevens & Co. Inc., 308 S.C. 116, 417 S.E.2d 527 (1992). One of my colleagues and I represented an employer in a retaliatory discharge case. The judge granted a directed verdict at the end of the plaintiff's case. The South Carolina Supreme Court affirmed the trial judge's decision.

Mr. Hodges reported he has not handled any criminal appeals.

Mr. Hodges further reported the following regarding unsuccessful candidacies:

- (a) I was a candidate for Judge of the Family Court, At Large Seat 6 in the fall of 2012. I was found qualified

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and nominated by the JMSC, but withdrew my name from consideration prior to the election.

- (b) I was a candidate for Judge of the Family Court, Thirteenth Judicial Circuit, Seat 5 in the fall of 2013. I was found qualified but not nominated by the JMSC. I was a candidate for Judge of the Family Court, Thirteenth Judicial Circuit, Seat 3 in the spring of 2016. I was found qualified and nominated by the JMSC, but withdrew my name from consideration prior to the election.

(9) Judicial Temperament:

The Commission believes that Mr. Hodges' temperament would be excellent.

(10) Miscellaneous:

The Upstate Citizens Committee on Judicial Qualifications found Mr. Hodges to be "Well Qualified" in the evaluative criteria of ethical fitness, professional, and academic ability, character, reputation, experience, and judicial temperament, and "Qualified" in the remaining evaluative criteria of constitutional qualifications, physical health, and mental stability.

Mr. Hodges is married to Erroll Anne Yarbrough. He has two children.

Mr. Hodges reported that he was a member of the following Bar associations and professional associations:

- (a) South Carolina Bar
- (b) Greenville County Bar

Mr. Hodges reported that he was a member of the following civic, charitable, educational, social, or fraternal organizations:

- (a) I am a member of the Greenville Country Club.
- (b) I am a member of Hogskin Hunt Club in Honea Path, SC.
I am the current Vice President of the club.
- (c) I am a member of the Greenville Gun Club.

He further reported:

I have been practicing exclusively in the Family Court for 13 years. Prior to that, I was a labor lawyer for 16 years with one of the

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nation's preeminent labor law firms. In both practices I worked very closely with individuals who were going through stressful situations. I have worked closely with multimillionaires to bankrupt individuals. I have worked closely with well educated individuals and those with very limited educations. As a result I have learned how to relate and connect with people regardless of their economic, social or educational background. I believe that my ability to treat all people with the same level of dignity and respect will be an invaluable asset as a Family Court judge.

- (11) Commission Members' Comments:
The Commission was impressed with Mr. Hodges' range of experience as well as his intellect.
- (12) Conclusion:
The Commission found Mr. Hodges qualified and nominated him for election to Family Court, At-Large, Seat 7.

**Delton Wright Powers Jr.
Family Court, At-Large, Seat 7**

Commission's Findings: QUALIFIED AND NOMINATED

- (1) Constitutional Qualifications:
Based on the Commission's investigation, Mr. Powers meets the qualifications prescribed by law for judicial service to the Family Court.
- Mr. Powers was born in 1952. He is 64 years old and a resident of Florence, South Carolina. Mr. Powers 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 Mr. Powers.

Mr. Powers demonstrated an understanding of the Canons of Judicial Conduct and other ethical considerations important to

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judges, particularly in the areas of ex parte communications, acceptance of gifts and ordinary hospitality, and recusal.

Mr. Powers reported that he has not made any campaign expenditures.

Mr. Powers 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. Powers 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. Powers to be intelligent and knowledgeable. His performance on the Commission's practice and procedure questions met expectations.

Mr. Powers described his continuing legal or judicial education during the past five years as follows:

I have had yearly seminars on ethics as a member of ODC. I have attended many Children's Law Center programs presented to DSS, and other DSS seminars. As a Board Member of SC Association of Criminal Defense Lawyers, I have attended numerous criminal law seminars as well. I have also attended some other programs as well, on civil and family law that were bar sponsored.

Mr. Powers reported that he has taught the following law-related courses:

I taught Criminal Law at Northeastern Technical College for one semester in 1991. I have provided staff training for Marlboro County DSS on several occasions. I have done training for local law enforcement, have made presentations and spoken in local schools, and was a Coach/Judge for South Carolina Mock Trial competitions.

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Mr. Powers reported that he has published the following:
A booklet called "Legal Services, A Different Kind of Law, A Different Kind of Lawyer." A 38 page overall look at problems facing low income and legal services type clients. It is a precursor to a publication that the Bar puts out now.

(4) Character:

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

The Commission also noted that Mr. Powers 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. Powers reported that "years ago" he had a 'BV' rating from Martindale Hubbell.

Mr. Powers reported that he has held the following public offices:

I served on the South Carolina Coastal Council from 1985-1993. I was elected by the Legislature to that position. I later served on the Coastal Resource Management Board, which was the successor to the Coastal Council, and placed under DHEC from 1995 to 2003. This too was elected by the Legislature.

(6) Physical Health:

Mr. Powers appears to be physically capable of performing the duties of the office he seeks.

(7) Mental Stability:

Mr. Powers appears to be mentally capable of performing the duties of the office he seeks.

(8) Experience:

Mr. Powers was admitted to the South Carolina Bar in 1977.

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

- 1978-1980 Assistant Solicitor for the Fourth Circuit. Prosecuted Criminal matters in General Sessions and Family Court. Also provided representation to DSS as was procedure at that time. Allowed to try major felony crimes including murder against very skilled and well known attorneys such as former Senator Jack Lindsay, and other firms in the 4th circuit.
- 1980-1982 Associate with John I. Rogers, III, Attorney, Bennettsville, SC. I handled mainly criminal matters, but worked in a general practice law firm. My partner was in the Legislature at the time so I had the management of the office and day to day dealing with clients. Our practice also involved a fairly heavy civil practice at the time. I was starting a practice in Cheraw when the opportunity came to run the Legal Services office listed next.
- 1982-1984 Executive Director of Legal Services of the Fourth Circuit. Hartsville, SC. Ran a 6- county Legal Services Organization. Recruited and supervised over 30 lawyers who worked under contract, supervised a staff of over 10, handled numerous types of cases for indigent clients in Family Court, landlord-tenant and other disputes, applied for grants for expansion and delivery of services and operations. Very helpful in learning government process, and in establishing relationships with lawyers and judges.
- 1984-1992 Partner in Rogers and Powers, PA. Practiced Criminal, Civil and Family Law with then house member John I. Rogers, III. Opportunity to handle all types of trials, including appeals. We were involved with State v. Blair, a leading case which has been standard in criminal cases in South Carolina for determining a client's competency to stand trial. Developed a

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reputation for successful litigation and dedicated client representation.

1992-Present Launched, managed and grew private law practice with criminal, civil, administrative and domestic matters. I had a very successful practice which allowed me to provide purposeful donations to civic, church and education groups. I endowed an initiative for Special Education teachers at Coastal Carolina, helped sponsor someone's schooling and pursuit of Seminary Education, and helped create and rebuild a theater for Marlboro County. Became a contract attorney for the Department of Social Services at that time and also served as Special Prosecutor for the Fourth Circuit under Solicitor's office with full responsibility for Marlboro County criminal cases, 1992-1998, concentrating on felony criminal cases. Reduced docket in 4 years from over a thousand cases to less than 200.

2002-2008 Combined my firm with a beach firm to create Joye, Locklair and Powers, with offices in Bennettsville and Murrells Inlet, SC. I handled Civil, criminal and Family Court matters, and continued to represent DSS. The firm also had an active real estate practice. I was also a mediator and handled mediation in Horry and Florence Counties. We had moved to the beach for autistic son's education opportunities, and moved back and disbanded firm after his graduation.

2009-2014 My daughter joined the firm, and it gave me a chance to continue to mentor and train young lawyers that I started while working in Murrells Inlet. I also have two son-in-laws who are attorneys who I have taken great joy in helping to develop both their skill and attitudes to the practice of law. My practice has now evolved into mainly Domestic Relations. I am also doing more extensive work for DSS in several counties. I have taken on several serious sexual

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abuse of a minor cases and some complicated matters involving DSS being enjoined in private actions.

Mr. Powers reported the frequency of his court appearances during the past five years as follows:

- (a) federal: no Federal work in over 10 years
- (b) state: Many weeks I am in Family Court at least 2-3 days a week. We do not have Court continuously running in small counties but there is some Court appearance somewhere almost every week. I also handle matters in General Sessions, Common Pleas, Magistrate and Municipal Courts.

Mr. Powers reported the percentage of his practice involving civil, criminal, and domestic matters during the past five years as follows:

- (a) civil: 20%
- (b) criminal: 20%
- (c) domestic: 60%

Mr. Powers reported the percentage of his practice in trial court during the past five years as follows:

- (a) jury: 10%
- (b) non-jury: 90%

Mr. Powers provided that he most often served as sole counsel.

The following is Mr. Powers' account of his five most significant litigated matters:

- (a) Randolph v. Hanley, et al # 85-DR-34-140 This case involved the attempt to set aside the adoption of 2 adults by a then deceased party. Although a probate matter in the state of Connecticut, the matter of the adoption was tried in Family Court. There was over One and one-half million dollars in the Estate, and the trial as to the competency of the deceased as well as the duress placed upon the deceased lasted a week. The deceased had been on occasion institutionalized for psychiatric problems and was accused of being an extreme alcoholic. I tried the case against one of my former law professors who was co-

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counsel to the Parties. We were successful on behalf of the adult children, and the case was appealed to the Supreme Court. The case was eventually settled, but raised a myriad of issues including psychiatric conditions, homosexuality of the adopting party, issues of competence, and legitimacy of adult adoptions.

- (b) State v. Charles Blair, 275 S.C. 529, 273 S.E.2d 536 (1981)

Charles Blair, a Vietnam veteran who had been exposed to Agent Orange, blew half of his grandmother's head off with a shotgun. He was tried and convicted of Murder. My partner and I handled the appeal, along with former Judge Benny Greer, now deceased, of Darlington. I did research on competency, and this became a landmark case as to the question of competency in Criminal trials. Mr. Blair later received a lighter sentence due to his mental condition. Although he was originally housed in a clinical confinement, he was later placed in the general population. I have visited him at CCI, and he was still delusional. Over the years he had sent letters threatening at some times to kill our families and at others how grateful he is.

- (c) State v. Stephen R. Smith, Docket Number 2012-CP-34-235.

I tried one of the first cases to raise the Stand your Ground defense in Magistrate's Court, and handled the subsequent successful appeal to the Circuit Court. The brief and grounds set out in this case have been shared and used by many other attorneys.

- (d) State v. Frank Richard Davidson. 07-GS-34-0322-0325. Mr.

Davidson was charged with 3 counts of Felony DUI resulting in Death, and one count of Felony DUI resulting in serious bodily injury. Mr. Davidson was a well-to-do Charlotte businessman who had developed a cocaine habit. He had been in a rehabilitation facility in the past, and on this date attempted to re-enter the facility for help. He went to the facility on this Sunday, and was told to "come back on Monday". Mr. Davidson had cocaine in his system, but was not actually using the drug, likely because he had run out of cocaine. No alcohol was in his system. He was traveling from the Charlotte area trying to get to another facility in or near Wilmington, NC, and this accident happened in Marlboro County. We were

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prepared to present a defense that would show he was not using drugs at the time of the accident but simply fell asleep. There were also technical issues to be raised as to the MAIT team investigation, and several good evidentiary questions.

I managed to make my client the main witness in a lawsuit against the recovery center which resulted in a multi-million dollar civil settlement. The Judge in the civil case was also the sentencing Judge in the criminal case. The Judge was so impressed both by my client's presentation in the Civil matter, as well as the preparation and presentation of the issues as to addiction and my client's remorse, that he received an active sentence of only 4 years. My client became an advocate against alcohol and drug abuse, as well as starting a Christian ministry inside the prison system. We managed to get his service in prison time commuted to house arrest with a requirement that he make a number of presentations to different schools, prisons, churches and other groups. He was allowed to live under house arrest for a portion of what was to be an active sentence at home in Charlotte. He was required to report regularly to a special supervisor and provide regular reports of his activities. Mr. Davidson started both this ministry and continued to speak out against drug and alcohol abuse. He started a website called TheRescued.com, and his testimony and work has touched many lives. He has held and participated in many festivals and events to educate others about drug abuse, and stays in touch with me about the work that he does. Mr. Davidson was approximately 40 years of age when this occurred, and we managed to make addiction and the failure of the recovery center to provide help when he sought it as the main culprit in a tragic situation. Mr. Davidson under some scenarios would have spent the rest of his life in prison.

- (e) State v Unnamed Defendant. This case is one which I think name should be withheld. This was a criminal trial in Marlboro County in which my client was charged with Receiving Stolen Goods. The Judge in this case who is now deceased sentenced my client beyond the maximum of 10 years and added 10 years probation. This was in the

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mid to early 1980's and there was a serious question raised at the time as to the sobriety of the Judge during the trial, and questions of the Judge questioning witnesses and making statements throughout the trial. The Court reversed the case, and my client received probation on a plea. These were difficult issues for a young lawyer to raise at a time when there was little transparency in our system.

The following are five civil appeals he has handled personally:

- (a) SC Department of Social Services v. Tiffany L., David T. and John Doe. Appellate Case Number: 2013-002581, Docket Number 2014-DR-16-487. Opinion issued on December 8, 2014.
- (b) Marlboro County Department of Social Services v. Carol and Billy Chestnut, Opinion No. 2001-UP-252, Filed by Court on May 15, 2001, Rehearing Denied June 27, 2001.
- (c) SCDSS v Beulah S. Appellate Case Number: 2014-002193 Unpublished Opinion issued on March 2, 2015
- (d) SCDSS v. Jessica S., et al, Appellate Case Number 2015-000223 Unpublished Opinion issued on November 5, 2015
- (e) SCDSS v. Jessica S. (Supreme Court) Appellate Case Number: 2016-000060. Writ of Certiorari denied on March 25, 2016

The following are two criminal appeals Mr. Powers has handled:

- (a) Stephen R. Smith v. State of South Carolina Docket Number : 2012-CP-34-235 (Magistrate to Common Pleas)
- (b) Harry Hester Hollis V. Sate of South Carolina Docket Number 2000-CP-34-165 (Magistrate to Common Pleas)

Mr. Powers reported that he has not previously held a judicial office.

- (9) Judicial Temperament:
The Commission believes that Mr. Powers' temperament would be excellent.

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(10) Miscellaneous:

The Pee Dee Citizens Committee on Judicial Qualifications found Mr. Powers to be “Well Qualified” in the evaluative criteria of ethical fitness, professional and academic ability, character, reputation, experience, and judicial temperament, and “Qualified” in the remaining evaluative criteria of constitutional qualifications, physical health, and mental stability.

Mr. Powers is divorced. He has three children.

Mr. Powers reported that he was a member of the following Bar associations and professional associations:

- (a) South Carolina Association of Criminal Defense Lawyers, 4th Circuit Representative. I have been a member for over 20 years, and have served as a Board member for probably 12 of those years on two different occasions.
- (b) South Carolina Bar since 1977
- (c) American Bar Association since 1982
- (d) SC Association for Justice since 1984
- (e) SC Bar Fee Dispute Committee for over 10 years
- (f) Member, Office of Disciplinary Counsel for approximately 10 years
- (g) Cole-Huff DUI Advocacy Group, Member

Mr. Powers provided that he was a member of the following civic, charitable, educational, social, or fraternal organizations:

- (a) Staff and Participant in Cursillo, Episcopal Lower Diocese, Seabrook Island, SC
- (b) Marlboro Players Theater Group, former board Member
- (c) Marlboro Arts Commission, Former President and Board Member
- (d) Marlboro Civic Center Foundation, Former Board Member
- (e) Completed the Camino to Santiago de Campostela Pilgrimage in Spain, May, 2016

Mr. Powers further reported:

I have been blessed and fortunate to have a successful and rewarding career for almost 40 years. My father served as a Magistrate and City Judge for 34 years, and I have been observing or participating in Courts since a little boy. I have also observed the drama that people live through, and have placed an emphasis

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on the counselor part of what we do as lawyers. I have had the big cases, and have been successful financially. I have also suffered through the turns of the economy, and after a 28 year marriage been through divorce as well. The problems of life, the pitfalls and setbacks we all endure either destroy you or become a source of strength and character. I feel my life experiences have made me qualified to serve in this capacity. I have learned hard lessons, and have been able to mentor young lawyers as well as advise and participate with co-counsel on many occasions. I think one of the best things I have done as a lawyer was to become a Mediator. This training and experience is something that not only made me a better lawyer but would make me a better Judge.

My service in representing the Department of Social Services in several different counties throughout the State has also allowed me to meet not just lawyers from other areas but to get to know Court personnel as well.

I am also blessed with three wonderful adult children. They are equipped for life and I have had the honor and pleasure of mentoring them in their own pursuits. I am now in a position for my own continued pursuit of public service.

Throughout my career I have been involved in public service in the legal field, my community and my spiritual life. I have served on numerous boards and commissions in our state, harking back to Governor Dick Riley's Commission on Crime, Criminal Justice and Juvenile Delinquency and continuing now in positions with the Bar.

And I have paid the light bill. I have been to the Detention Center to visit a client. I know what it is like to be a lawyer, to not only serve your clients but to manage your business as well. I understand what it is like to hold a mother's hand after a child is sentenced, and to see a child or young person standing before the Court without family support. I have the experience that is can only be gained by years of practice. Being in a small town I think gives the particular benefit of having the ability to learn all facets of law.

Public Service is why I became a lawyer. I feel now serving the Judiciary as a Family Court Judge is a way to give back to the system in a meaningful way. I am lucky to have little or no financial obligation, and no impediments to travel and serve wherever in the State I am needed. I in fact embrace the idea that I would be used wherever needed throughout our State. I have in

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the past stepped aside both for others and due to circumstances, but feel it is now my time to serve.

- (11) Commission Members' Comments:
The Commission commented that Mr. Powers' many years of experience and wide background would serve him well on the bench.
- (12) Conclusion:
The Commission found Mr. Powers qualified and nominated him for election to Family Court, At-Large, Seat 7.

**The Honorable Rosalyn W. Frierson
Family Court, At-Large, Seat 8**

Commission's Findings: QUALIFIED AND NOMINATED

- (1) Constitutional Qualifications:
Based on the Commission's investigation, Judge Frierson meets the qualifications prescribed by law for judicial service to the Family Court.
- Judge Frierson was born in Columbia, South Carolina, in 1958. She is 58 years old and a resident of Columbia, South Carolina. Judge Frierson 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 1992.
- (2) Ethical Fitness:
The Commission's investigation did not reveal any evidence of unethical conduct by Judge Frierson.
- Judge Frierson 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 Frierson reported that she has not made any campaign expenditures.

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Judge Frierson 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 Frierson 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 Frierson to be intelligent and knowledgeable. Her performance on the Commission's practice and procedure questions met expectations.

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

<u>Conference/CLE Name</u>	<u>Date(s)</u>
(a) Elder Law	1/20/2011
(b) Criminal Law	1/21/2011
(c) Family Court Issues	1/21/2011
(d) Law Firm Management	1/22/2011
(e) Lawyer Mentoring 2 nd Pilot Program	3/3/2011
(f) Family Court Judges Conference	6/1/2011
(g) Annual Judicial Conference	8/17/2011
(h) USC Law School Nonprofit Organizations Clinic	9/1/2011
(i) How Autopsies are Used in Trials	9/7/2011
(j) Southern Region High Court Conference	9/15-16/2011
(k) Social Security Disability & Children	10/12/2011
(l) Masters-in-Equity 2011	10/14/2011
(m) Women Lawyers & Leadership: Status	10/21/2011
(n) Summary Court Judges Fall Program	11/4/2011
(o) Elder Law Section CLE	1/19/2012
(p) Family Law Section	1/20/2012
(q) Government Law Section	1/20/2012
(r) Health Care Law Section	1/20/2012
(s) Probate Planning & Trust Section	1/20/2012
(t) Family Court Judges Conference	4/18/2012

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(u)	Intensive Training – Municipal Judge	8/19/2013
(v)	Annual Judicial Conference	8/22-23/2013
(w)	SCBLA Annual Retreat	9/26/2013
(x)	Selected Criminal Procedure Issues & Affordable Housing	10/18/2013
(y)	Pro Bono Summit	10/21/2013
(z)	Summary Court Judges Mandatory School	11/1/2013
(aa)	Dispute Resolution Section (Bar Convention)	1/23/2014
(bb)	Criminal Law Section (Bar Convention)	1/24/2014
(cc)	Family Law Section (Bar Convention)	1/24/2014
(dd)	Children's Law Committee (Bar Convention)	1/25/2014
(ee)	Orientation School for Municipal Court Judges	3/17-28/2014
(ff)	Understanding Banking & Finance Laws	4/10/2014
(gg)	Family Court Judges Conference	4/23/2014
(hh)	Orientation School for Municipal Judges	7/21/2014
(ii)	Summary Court Intensive Training	8/18-20/2014
(jj)	Annual Judicial Conference	8/21-22/2014
(kk)	Understanding the Rules Governing Social Security	10/2/2014
(ll)	Stress Management for the Legal Profession	2/5/2015
(mm)	Basics of VA Benefits	3/5/2015
(nn)	Family Court Judges Conference	4/16/2015
(oo)	Highlights of the Current Term of U.S. Supreme Court	7/9/2015
(pp)	ABA Standing Comm. on the American Judicial System	7/31/2015
(qq)	Magistrate Intensive Training	8/17/2015
(rr)	Annual Judicial Conference	8/20-21/2015
(ss)	Persuasive Presentations and Rules Refresher	9/3//2015
(tt)	Diversity, Inclusion & Leadership in Law	9/15/2015
(uu)	S.C. Legislative Update	10/1/2015
(vv)	SC Public Employee Benefit Authority	10/16/2015
(ww)	National Summit on Human Trafficking & the State Courts (N.Y.)	10/7-9/2015
(xx)	Summary Court Mandatory Program	11/6/2015
(yy)	2015 Ethics and Discipline Update	1/7/2016
(zz)	Pre-Legislative Session Kickoff	1/15/2016

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- (aaa) 2015 Domestic Violence Reform Act: What Lawyers
Need to Know 2/11/2016
- (bbb) Circuit Court Judges Spring Conference 3/10/2016
- (ccc) Communicating with the Other Side: Represented or
Unrepresented 4/7/2016
- (ddd) Family Court Judges Conference 4/14-15/2016
- (eee) Overview of the Privacy Act & Deposing Govt.
Officials 5/5/2016
- (fff) Ethics and Electronic Communication 5/26/2016
- (ggg) Military Justice & the Special Victim
Counsel 6/17/2016

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

- (a) I have made presentations at the S.C. Bar “Bridge the Gap” Program for new lawyers giving an overview of the State Court System. I have presented at almost all programs since becoming State Court Administrator in 1998 until 2012 when the program format changed.
- (b) I have provided opening remarks and overview to Summary Court judges during the Orientation School for Summary Court judges twice a year for at least 14 years.
- (c) I was a panelist at the University of Kentucky Law Journal Symposium on Court Funding, 9/23/2011. The topic was 18th Century Courts – 21st Century Expectations. The audience included State Chief Justices, State Court Administrators, attorneys and law professors from across the U.S. and territories.
- (d) I was a presenter at the 2008 Annual Meeting of the Conference of Chief Justices and State Court Administrators during an educational session. The educational session was a mock trial where I presented oral argument on behalf of the state in a hypothetical case related to ethical misconduct. The audience was State Chief Justices and State Court Administrators and other guests.
- (e) I have made numerous presentations at the annual Clerks of Court Association conferences related to court related procedural issues, legislation affecting the courts and other pressing concerns affecting clerks of court and the operation of the courts.

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- (f) I was a presenter at the ABA Task Force on Preservation of the Justice System - General Counsel Summit May 2, 2012. The summit included chief legal counsel from America's leading corporations, Chief Justices and other attorneys.
- (g) I was a presenter at the ABA Symposium titled Justice is the Business of Government: The Critical Role of Fair & Impartial State Courts, 5/7-9/2009. The invitation only national conference was hosted by the ABA Presidential Commission on Fair and Impartial State Courts and the National Center for State Courts. The discussion centered around best practices for improving inter-branch cooperation towards the goal of making the justice system more effective and efficient to meet the needs of the public.
- (h) I was a panelist at the ABA Tort Trial & Insurance Practice Section CLE 5/18/2012, discussing continuity of operations for state courts in the event of a disaster. The audience consisted of attorneys from various states.
- (i) I was a presenter at the Master in Equity CLE discussing background leading to the mortgage foreclosure administrative order issued by the Supreme Court in May 2011 and provided information on recent court procedural changes.
- (j) I was a presenter at a Bench Bar Hot Tips CLE December 7, 2012, discussing the requirements of the recently enacted Parenting Plan. The audience included the family court bench and attorneys.
- (k) I was a presenter at the 2016 Annual Meeting of the Conference of Chief Justices and State Court Administrators during an educational session. I served as moderator July 26, 2016, for the Session titled Third Party Evaluators in Child Custody Proceedings: Who Are They and What Are the Standards of Practice. The audience was State Chief Justices, State Court Administrators and other guests.

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

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- (4) Character:
The Commission's investigation of Judge Frierson did not reveal evidence of any founded grievances or criminal allegations made against her. The Commission's investigation of Judge Frierson did not indicate any evidence of a troubled financial status. Judge Frierson has handled her financial affairs responsibly.

The Commission also noted that Judge Frierson 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 Frierson reported that she is not rated by any legal rating organization.

Judge Frierson reported that she has never held a public office, other than judicial office.

- (6) Physical Health:
Judge Frierson appears to be physically capable of performing the duties of the office she seeks.

- (7) Mental Stability:
Judge Frierson appears to be mentally capable of performing the duties of the office she seeks.

- (8) Experience:
Judge Frierson was admitted to the South Carolina Bar in 1992.

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

- (a) Substitute Municipal Court Judge – City of Columbia; August 2013 – Present

I was appointed by Columbia City Council to serve as Substitute Municipal Court Judge. As a substitute judge, I hold court an average of two to five days per month. Municipal Court, with some exceptions, has jurisdiction over criminal offenses that are subject to fines of not

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more than \$500.00 and/or imprisonment of not more than 30 days. As Municipal Court judge I preside over preliminary hearings, bond court, non-jury criminal, domestic violence, and traffic cases.

- (b) State Court Administrator, S.C. Judicial Department; November 1998 - Present

As State Court Administrator, I am responsible for administering the state court system under the direction of the Chief Justice of the S.C. Supreme Court. My Responsibilities include developing procedures to implement Supreme Court rules, policies and state and federal law affecting state courts. Additional responsibilities include coordinating state judicial functions with county court officials; serving as State contact with the National Center for State Courts; serving as a conduit for information for the management of personnel and operations in support of the functions of the state courts at all levels. Duties include serving as liaison between the Legislative and Judicial Branch relating to the annual appropriation act and legislation affecting the courts. My duties involve managing Court Administration staff including five staff attorneys and over 100 Judicial Department Court Reporters. As State Court Administrator, my responsibilities include responding to legislative, governmental, media and citizen inquiries. Duties require frequent interaction with governmental agencies such as the Department of Social Services, Department of Juvenile Justice, Probation Parole and Pardon, Department of Corrections, Guardian ad Litem and Foster Care Review Board regarding state court policies and procedures. I assist the media with requests for court related information promoting public accountability and transparency. Duties include making recommendations to the Supreme Court to implement changes in state law and court rules. My office is responsible for providing education and direction to judges, clerks of court and the bar to implement new policies and procedures. This position involves identifying emerging issues that may impact the courts statewide or that may have precedent setting impact and making recommendations to the Supreme Court to

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address the challenges. On a regular basis, I am required to exercise judgment and problem resolution skills particularly related to the interpretation of state law and court rules.

- (c) Law Clerk to the Honorable Ernest A. Finney, Jr., Chief Justice
South Carolina Supreme Court, July 1993 - November 1998
As a Supreme Court law clerk, I researched complex legal issues on appeal to the Supreme Court. I wrote bench memoranda for the court providing legal case analysis and proposed recommendations and opinions in the areas of domestic, civil and criminal law. Because of my earlier experience as a Budget Research Analyst for the House of Representatives, Ways and Means Committee, I assumed the additional duty of monitoring legislative bills that affected the Judicial Branch, as well as the Appropriations Act.
- (d) Legal Writing Instructor University of South Carolina School of Law 1998-1999
I taught legal writing to first year law students and was responsible for providing instruction on legal research and legal writing, graded assignments and provided course grades.
- (e) Staff Attorney: South Carolina Supreme Court, August 1992 - July 1993
I researched legal issues; prepared screening memoranda and reviewed appellate motions for the Supreme Court Justices.
- (f) Summer Associate, Nelson, Mullins, Riley & Scarborough, Columbia, South Carolina, May 1990 - August 1990; May 1991 - August 1991
Researched legal issues and drafted memoranda with emphasis in Workers' Compensation, Bankruptcy and Commercial Law.

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

- (a) Substitute Municipal Judge, City of Columbia, August 2013-present

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

- (a) State Court Administrator, S.C. Judicial Department; November 1998 – Present, Supervisor – S.C. Chief Justice.

Judge Frierson further reported the following regarding an unsuccessful candidacy:

I ran for Family Court, At-Large, Seat 1, January 2013. I was found qualified and nominated. The first ballot was tied and I lost on the second ballot by one vote.

Judge Frierson reported the frequency of her court appearances in the five years prior to her appointment to the bench as follows:

- (a) federal: 0
- (b) state: 10%*

*Note: 10% is listed considering my appearances are limited by available pro bono cases and personal time available using annual leave while maintaining full time state employment. This does not include my involvement in family court matters in my role as Court Administrator. I estimate that I spend at least 50% of my full time work on family court related matters.

Judge Frierson reported the percentage of her practice involving civil, criminal, and domestic matters in the five years prior to her appointment to the bench as follows:

- (a) civil:
- (b) criminal: 30% (Municipal Court as substitute or part-time service)
- (c) domestic: 10% see above note*

Judge Frierson reported the percentage of her practice in trial court in the five years prior to her appointment to the bench as follows:

- (a) jury: 0
- (b) non-jury: 100% (all matters that I have been involved in Family Court and Municipal Court are non-jury matters)

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Judge Frierson provided that she most often served as sole counsel when representing pro bono clients in Family Court divorces and presided over non-jury Municipal Court matters.

The following is Judge Frierson's account of her two most significant litigated matters prior to her appointment to the bench:

- (a) Davis v. Davis. I represented a pro bono plaintiff in a divorce action based on One Year's Continuous Separation. This case was significant because it gave me the opportunity to represent a client in need of assistance who otherwise would not have been able to move forward with her life.
- (b) Sutton v. Sutton. I represented pro bono plaintiff in divorce action based on One Year's Continuous separation. This case was significant because the plaintiff was in need of representation and had limited abilities to navigate the legal system. The plaintiff's wife was non-responsive.

Judge Frierson reported the following in regards to four civil appeals she handled in private practice:

I provide appellate cases handled as a Supreme Court Law Clerk. There are significant more cases that I worked on as law clerk, however records of my involvement are stored in Word Perfect and are no longer retrievable. Below are cases that I can document at this date.

- (a) Thomas v. Grayson, 456 S.E.2d 377 (1995) – Certified question from the U.S. District Court involving determination whether amendment to complaint to assert qualification in S.C. of foreign personal representative would be allowed in an which was otherwise timely.
- (b) Gilley v. Gilley, 488 S.E.2d 310 (1997) - consolidated appeals from circuit and family court orders related to partition of property held as tenants-in-common and claim for equitable apportionment was precluded based on prenuptial agreement.
- (c) Doe v. Clark, 457 S.E.2d 336 (1995) – involved an adoption case where the issue on appeal related to whether a mother's consent to relinquish her parental rights before the birth of her child was valid.

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- (d) Gilliam v. Woodside Mills, 461 S.E.2d 818 (1995) – Workers’ Compensation matter regarding degree to which claimant was disabled

Judge Frierson reported the following in regards to a criminal appeal she handled in private practice:

- (a) State v. Cooney, 463 S.E.2d 597 (1995) – Review of murder conviction and determination whether there was error in not charging on common law of citizen’s arrest and use of reasonable force and exclusion of evidence.

(9) Judicial Temperament:

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

(10) Miscellaneous:

The Midlands Citizens Committee on Judicial Qualifications found Judge Frierson to be “Well Qualified” in the evaluative criteria of ethical fitness, professional and academic ability, character, reputation, and judicial temperament, and “Qualified” in the evaluative criteria of constitutional qualifications, physical health, and mental stability, and “Unqualified” in the remaining evaluative criteria of experience. The Committee commented: “Ms. Frierson is an intelligent and personable candidate who also rates high on temperament and integrity. We believe she has tried to gain the experience to qualify her for the Family Court bench, but, as a full-time State employee, it has been difficult for her to succeed. We understand that she has a unique relationship with the Family Court as a result of her current position, but, we are still concerned with her lack of experience in all matters heard in the Family Court and her lack of experience in dealing with the relationship between attorneys and clients. It is for these reasons that we regretfully find her unqualified in the area of experience. Not even every attorney who has practiced in the Family Court would be qualified to serve on the bench, so we must conclude that she also falls below the standard required to serve on the Family Court bench.”

Judge Frierson is married to Leroy “Roy” Smith. She has two children.

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

- (a) S.C. Women Lawyers Association, President 2007
- (b) S.C. Children's Justice Act Task Force
- (c) S.C. Commission on Alternative Dispute Resolution
- (d) Family Court Bench Bar Committee
- (e) S.C. Bar House of Delegates 2010 - present
- (f) ABA State Delegate representing SC Bar 2010 - 2014
- (g) Richland County Bar Association member 2000 – present
- (h) Richland County Bar Association Civic Star Award
2002
- (i) S.C. Access to Justice Commission 2007 - present
- (j) American Bar Association member 2008- present
- (k) S.C. Black Lawyers Association
- (l) S.C. Legal Services Board of Directors 2007-2011
- (m) President Conference of State Court
Administrators 7/2011 -8/2012
- (n) Vice Chair, National Center for State Courts 7/2011–
8/2012
- (o) S.C. Lawyer Magazine Articles Editorial Board 2006 –
present
- Editor 2014-2016
- (p) Executive Session for State Court Leaders in the 21st
Century
Harvard Kennedy School of Government (participation
by invitation) 2009 -2011
- (q) Graduate, Midlands Furman Diversity Leadership
Institute 2009
- (r) Graduate S. C. Executive Institute 2004
- (s) S.C. Bar Practice and Procedure Committee
- (t) S.C. Bar CLE - Seminar Committee
- (u) CCJ/COSCA Joint Courts, Children and Families
Committee, co-chair 2007-present
- (v) Inductee, National Center for State Courts Warren E.
Burger Society 2014
- (w) S.C. Lawyers Weekly Leadership in Law Award Honoree
2015
- (y) Gold Compleat Lawyer Awardee, USC School of Law
Alumni Council 2016
- (z) ABA Committee on the American Judicial System 2012-
2015

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- (aa) ABA Standing Committee on Governmental Affairs 2015-present
- (bb) National Task Force on Fines, Fees, & Bail Practices, Advisory Board 2015-present
- (cc) ABA Family Law Section

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

- (a) Richland Memorial Hospital Board of Trustees,
 - member 2008-2015
 - Secretary 2009-2010
 - Vice Chair 2015
 - Chair 2014
- (b) Palmetto Health Board of Directors 2010-present
- (c) Columbia Alumnae Chapter of Delta Sigma Theta Sorority, Inc.,
 - President 2007-2011
 - Parliamentarian 2003-2007
- (d) St. Martin de Porres Catholic Church, collection counter 2007-present
- (e) St. Martin de Porres Catholic Church, Lector (Lay Reader) 2005-present
- (f) St. Martin de Porres Catholic Church, Women's Gospel Choir 2008-2010
- (g) Rosary Altar Society, Parliamentarian 2011-2012

Judge Frierson further reported:

I believe that I have the skills required of a judge. Over my years of service as a Court Administrator, I have worked on many educational programs for family court judges. Through my close working relationship with family court judges, I understand what is involved with service as a family court judge. I believe that my experiences are valuable training for the bench. I acknowledge that there are areas that I will have to educate myself on and I am willing to spend the time to enhance my skills. I believe that the depth and breadth of my experience far exceed that of the traditional candidate. Additionally, my varied background gives me a well rounded perspective of the family court. My unique experience gives me an in-depth understanding and view of the family court system.

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I have had the opportunity to devote a great deal of time to examining systemic problems within the court system. Additionally, my experiences as a Municipal Court Judge and presiding officer of professional and civic organizations have allowed me to perfect my analytical, communication, organization and problem solving skills. All of these skills would be beneficial to presiding as a Family Court Judge. I believe that my ability to listen to all sides, along with my patience, passion for justice and fairness are all essential attributes for service as a judge

The South Carolina legal community has found me to be competent, fair, and impartial in the advocacy and advancement of court administrative matters and the legal system. I am confident this chorus of support will be reflected in my letters of recommendation and other related inquiries. My professional and personal conviction has always been to unbiasedly respect an individual's rights and to concurrently leverage our system of laws and objective rule making for the greater good. I therefore humbly declare my candidacy to serve on the Family Court.

(11) Commission Members' Comments:

The Commission commented that Judge Frierson has an outstanding reputation as a hard worker and appreciates her service as Director of Court Administration.

(12) Conclusion:

The Commission found Judge Frierson qualified and nominated her for election to Family Court, At-Large, Seat 8.

**Laurel Eden Harvey Hendrick
Family Court, At-Large, Seat 8**

Commission's Findings: QUALIFIED AND NOMINATED

(1) Constitutional Qualifications:

Based on the Commission's investigation, Ms. Hendrick meets the qualifications prescribed by law for judicial service as a Family Court judge.

Ms. Hendrick was born in 1980. She is 36 years old and a resident of Columbia, South Carolina. Ms. Hendrick provided in her application that she has been a resident of South Carolina

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for at least the immediate past five years and has been a licensed attorney in South Carolina since 2005.

(2) Ethical Fitness:

The Commission's investigation did not reveal any evidence of unethical conduct by Ms. Hendrick.

Ms. Hendrick 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. Hendrick reported that she has made \$1.00 in campaign expenditures for stamps to mail in fingerprint cards to SLED.

Ms. Hendrick 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. Hendrick 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. Hendrick to be intelligent and knowledgeable. Her performance on the Commission's practice and procedure questions met expectations.

Ms. Hendrick described her continuing legal or judicial education during the past five years as follows:

- (a) Children's Law Conference 11/05/2010;
- (b) Children's Law Office Mini Summit on Justice for Children 12/02/2010;
- (c) SCWLA Ethics Seminar 02/03/2011;
- (d) Attorney General's Liability and Defense for Government Lawyers 02/18/2011;

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- (e) SCWLA Troubling Statistics on Lawyers and Substance Abuse 06/02/2011;
- (f) SCWLA Social Security Disability and Children 10/12/2011;
- (g) Children's Law Conference 11/04/2011;
- (h) SCWLA Legal Needs and Immigration Relief 03/01/2012;
- (i) Law School Symposium on Prosecutorial Ethics and Duties 03/15/2012;
- (j) Ending Child Abuse Through Advocacy & Education 03/30/2012;
- (k) SCWLA Collaborative Law in South Carolina 07/26/2012;
- (l) SCDSS Immigration CLE 10/05/2012;
- (m) Children's Law Conference 10/26/2012;
- (n) SCDSS Special Issues in Child Welfare Proceedings 12/07/2012;
- (o) SCDSS Trial Preparation and Trial Advocacy Skills 02/22/2013;
- (p) Prosecuting Child Sexual Abuse Cases in Family Court 05/31/2013;
- (q) SCDSS Effective Appellate Advocacy 09/27/2013;
- (r) SCDSS Boot Camp Training for Child Welfare Professionals 04/04/2014;
- (s) SCDSS Evidentiary Challenges in Abuse and Neglect Cases 09/26/2014;
- (t) Children's Law Conference 10/24/2014;
- (u) Forensic Science and Controlled Substances 01/23/2015;
- (v) Fifth Circuit Solicitor's Office Quartely Update 03/10/2015;
- (w) Prosecuting In Family Court Issues and Best Practices 05/18/2015;
- (x) Fifth Circuit Solicitor's Office Quartely Update 08/20/2015;
- (y) National Association of Drug Court Professionals Annual Conference 07/27/2015;
- (z) Solicitor's Association Annual Conference 09/20/2015;
- (aa) Children's Law Conference 10/23/2015;
- (bb) Human Trafficking Summit (Registered) 08/16/2016

Ms. Hendrick reported that she has taught the following law-related courses:

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- (a) Presented at Department of Social Services Continuing Legal Education Conferences on such topics as Foregoing Reasonable Efforts and the Role of the Foster Care Review Board in the Child Welfare System.
- (b) Guest lecturer in the Juvenile Justice Clinic and Juvenile Justice Courses at the University of South Carolina, School of Law. I have also presented to the Children's Law Center's Externship Class and supervised 2 externs as part of that class.
- (c) Since 2005 I have made presentations to local law enforcement agencies, including the Richland County Sheriff's Department, City of Columbia Police Department, University of South Carolina Police Department, Irmo Police Department and Forest Acres Police Department on juvenile procedures. I also participate in training School Resource Officers at the City of Columbia Police Department and the Richland County Sheriff's Department.
- (d) Presented during training for arbitrators for the Richland County Youth Arbitration Program.

Ms. Hendrick reported that she has not published any books or articles.

(4) Character:

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

The Commission also noted that Ms. Hendrick 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. Hendrick reported that she is not rated by any legal rating organization.

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- (6) Physical Health:
Ms. Hendrick appears to be physically capable of performing the duties of the office she seeks.
- (7) Mental Stability:
Ms. Hendrick appears to be mentally capable of performing the duties of the office she seeks.
- (8) Experience:
Ms. Hendrick was admitted to the South Carolina Bar in 2005.

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

- (a) From November 2005 through February 2007 I worked in the Fifth Circuit Solicitor's Office, Richland County Family Court Division handling adjudication, dispositional, detention, review and waiver hearings.
- (b) From February 2007 through September 2010 I worked in the Fifth Circuit Solicitor's Office in both General Sessions and Family Court. There I managed a case load of approximately 400 cases of both violent and non-violent crimes. I was also part of the team that handled Driving Under the Influence cases in Magistrate and General Sessions Court. I was the liaison between the General Sessions and the Family Court divisions in Richland County; handling the majority of violent crimes committed by juveniles and all waiver eligible cases.
- (c) From September 2010 through March 2013 I was the Staff Attorney for the Foster Care Review Board Division of the Governor's Office of Executive Policy and Programs (now part of the Department of Administration). With this position I had the opportunity to travel around the State and appear in almost every circuit to represent the Foster Care Review Board. I worked with both Department of Social Service lawyers and private attorneys representing birth parents, foster parents and prospective adoptive parents.
- (d) From March 2013 through May 2014 I was a county attorney for the Department of Social Services in Richland County representing the agency in Abuse and

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Neglect and Vulnerable Adult hearings. I appeared in Court a minimum of two (2) days per week for multiple hearings each day. I also drafted pleadings, order, motions and discovery for approximately seventy (70) cases.

- (e) From May 2014 through January 2015 I was the Managing Attorney for the Department of Social Services in Fairfield and Chester Counties, where I was responsible for all legal actions and the direct management of two (2) paralegals.
- (d) Currently I am the team lead and prosecutor for Richland County Family Court Division in the Fifth Circuit Solicitor's Office handling all juvenile cases in Richland County to include all criminal adjudications and all cases diverted to Juvenile Pre-trial Diversion, Juvenile Drug Court and Juvenile Mental Health Court.

Ms. Hendrick reported the frequency of her court appearances during the past five years as follows:

- (a) federal: 0%
- (b) state: 100%
- (c) Other: N/A

Ms. Hendrick reported the percentage of her practice involving civil, criminal, and domestic matters during the past five years as follows:

- (a) civil: 0%
- (b) criminal: 32 %
- (c) domestic: 68%
- (d) other: 0%

Ms. Hendrick reported the percentage of her practice in trial court during the past five years as follows:

- (a) jury: 0%
- (b) non-jury: 100 %

Ms. Hendrick provided that she most often served as sole counsel.

The following is Ms. Hendrick's account of her five most significant litigated matters:

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- (a) State v. Terrence Jennings, 2010-UP-054 – This was a lengthy and complicated Armed Robbery and Murder trial of a 17 year old that shot and killed a good Samaritan that offered him and his friends a ride. One of the Co-defendants was a juvenile who only turned 14 weeks before the incident. The State moved to waive the juvenile's case to General Sessions due to the seriousness of the charge. I handled the waiver hearing in Family Court. The Family Court denied the motion to waive jurisdiction to General Sessions because of his young age and minimal prior record. After the waiver hearing, the juvenile became a cooperating witness and testified against Mr. Jennings. Mr. Jennings was also charged with Attempted Armed Robbery and Assault and Battery with Intent to Kill in which he shot a cab driver. After pre-trial hearings, the Court allowed the victim of the Attempted Armed Robbery and Assault with Intent to Kill to testify in the Murder trial. The jury found Mr. Jennings guilty of Armed Robbery and Murder and he was sentenced to life in prison. The juvenile was eventually adjudicated in Family Court to Accessory After the Fact of Armed Robbery and Murder and sentenced to serve an indeterminate amount of time at the Department of Juvenile Justice not to exceed his twenty-first birthday. I handled all of the Family Court hearings and was second seat in the General Sessions trial. This case was significant to me because the juvenile and Mr. Jennings were 3 years apart in age and participated in the same incident, but the end result for each of these teenagers was drastically different.
- (b) South Carolina Department of Social Services v. C. S., et. al. – This was a termination of parental rights action involving six (6) children with the same mother and four (4) different fathers. The first issue in this case was properly serving all the fathers. Only one of the fathers was actually able to be served by certified mail and the others had to be served by publication. When I took over the case, the termination of parental rights action had been pending for over six (6) months with none the fathers served. I was able to direct the case workers to comply with statutory requirements to obtain Orders for

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Publication and properly serve all of the parties. This family had been involved with the Department of Social Services for over ten (10) years and this was the third indicated case against the Mother. At the time of the termination of parental rights action, all of the children had been in foster care for thirty-two (32) consecutive months. The guardian ad litem agreed that termination of the parental rights was in the best interest of the five (5) youngest children, but not for the oldest child who was sixteen (16) years old due to his desire not to be adopted. After a trial, including testimony from the Mother, the Court terminated the parental rights of the parents to the five (5) youngest children and agreed with the guardian ad litem in regards to the older child. The five (5) younger siblings have been adopted. This case was significant to me because I was able to accomplish the legal steps necessary to provide the children with opportunity for a permanent home and to exit foster care with a positive outcome.

- (c) In the Interest of C. C. – In this case the 15 year old minor-Respondent was charged with two (2) counts of Criminal Sexual Conduct in the First Degree. The allegations in the case involved the minor-Respondent sexually assaulting his younger half-siblings. This case was very unusual because the Father of the victims was also the Father of the minor-Respondent. The Father wanted his son held responsible but also to receive rehabilitation services. The Father did not believe his son should be on the sex offender registry for life and wanted to avoid the younger siblings having to testify against their older brother. I secured a solution that would prevent the younger children from having to testify and defer the issue of the sex offender registry to the presiding Judge. This allowed the Judge to review two (2) separate sex offender risk assessments and a full psychological evaluation before determining not to order the minor-Respondent to register as a sex offender. As a prosecutor, I felt strongly the juvenile needed inpatient sex offender treatment at a secure facility and should remain detained until the Department of Juvenile Justice located placement. The Court was

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concerned that the minor-Respondent had been incarcerated for several months and was not receiving treatment. I respected and gave deference to the Judge's decision and was able to collaborate with the defense attorney and the Department of Juvenile Justice to arrange that the minor-Respondent be placed at a group home near the inpatient treatment facility so outpatient treatment services could begin immediately and continue until bed space became available at the inpatient facility. This minor-Respondent is currently at the inpatient treatment facility and is progressing towards his treatment goals. Unfortunately, this is only one example of several cases I have prosecuted with juveniles sexually assaulting younger family members. This case is an example of how the prosecutor, defense attorney and Department of Juvenile Justice cooperate to accomplish a fair and just resolution for all parties involved.

- (d) Department of Social Services v. B. G., et al. – This child entered foster care at birth because the Mother abused drugs while pregnant. The child has a heart defect and while in foster care had complications during surgery causing a leg to be amputated. The Mother was successful with drug treatment but had difficulty securing stable housing and employment. To further complicate matters, the Mother's boyfriend/fiancée failed Court ordered drug screens. Throughout the case, the agency was concerned about the Mother's ability to care for her child's special medical needs. Over the course of the case the child left and reentered foster care three (3) times. The abuse and neglect case closed two (2) years after it opened with the child being reunited with her family. Nearly every hearing in this case was contested and I was responsible for drafting very lengthy and complicated pleadings and orders due to the multiple hearings and changes in custody. I was not the attorney when the case was initiated or closed; however, I did handle the majority of the litigation. I worked very diligently with the case workers, medical providers, defense attorneys and the guardian ad litem to ensure the agency followed the law and treated the Defendants

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fairly while never compromising the safety or welfare of the child. This case is remarkable because after three (3) entries in foster care, the child was successfully reunited with her family.

- (e) State v. Antonio Barnes and Devion Jenkins – When Mr. Barnes and Mr. Jenkins were fifteen (15) years old, they went to an apartment complex in search of a rival gang member. While they stood at the top of a hill looking into the apartment complex, Mr. Barnes encouraged Mr. Jenkins to shoot into the apartment complex at the rival gang member. They did not hit their intended target and another person was shot and killed. Both were charged with Murder in Family Court. Both had prior history with the Department of Juvenile Justice and after separate waiver hearings were waived to General Sessions. After much negotiation, both entered a guilty plea to voluntary manslaughter and were sentenced to twenty-three (23) years. Although they were not convicted of murder, the victim's family was very appreciative of the effort it took to ensure they would have an adult conviction and serve significantly longer sentences than if the case remained in Family Court. I handled every aspect of this case from the initial forty-eight (48) hour detention hearing in Family Court to the final sentencing hearing in General Sessions. I believe that this was an appropriate result in this case because they were held accountable as adults but their young age was also considered.

Ms. Hendrick reported she has not personally handled any civil or criminal appeals.

- (9) Judicial Temperament:
The Commission believes that Ms. Hendrick's temperament would be excellent.
- (10) Miscellaneous:
The Midlands Citizens Committee on Judicial Qualifications found Ms. Hendrick to be "Well Qualified" in the evaluative criteria of ethical fitness, professional and academic ability, character, reputation, and judicial temperament, and "Qualified"

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in the remaining evaluative criteria of constitutional qualifications, physical health, mental stability, and experience. The Committee stated in summary, “We believe Ms. Hendrick needs broader experience before she is ready to serve on the Family Court bench.”

Ms. Hendrick is married to Matthew Richard Hendrick. She has two children.

Ms. Hendrick reported that she was a member of the following Bar associations and professional associations:

- (a) South Carolina Bar Association
- (b) South Carolina Women’s Law Association 2010-2013

Ms. Hendrick provided that she was a member of the following civic, charitable, educational, social, or fraternal organizations:

- (a) Member of Forest Lake Elementary School PTO
- (b) Member of Beth Shalom Synagogue
- (c) Recipient of the 2016 Ernest F. Hollings Award for Excellence in State Prosecution in the Family Court

Ms. Hendrick further reported:

My father is a member of the South Carolina Bar, with his practice concentrated in criminal defense. My mother is a licensed therapist who works with children and families. Growing up, I realized that both my parents were constantly helping and guiding people through difficult and emotional situations. This led me to choose a career serving others. For over a decade, I have been involved in Family Court in various capacities. This has granted me countless opportunities to witness how the Family Court operates and how it impacts the lives of the litigants and children involved. I have great respect for those who serve as Family Court Judges. Family Court Judges have the responsibility of making difficult decisions in an emotional environment where the future of families, children, and lives are at stake.

My experience as a prosecutor in both Family Court and the Court of General Sessions, together with

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years of practicing in child welfare law, have equipped me with the knowledge, perspective, and insight to serve on the Family Court Bench. Furthermore, with the passage of the “Raise the Age” bill my expertise in criminal law will be a valuable asset as the jurisdiction of Family Court is set to expand in July 2019. This legislation allows the Family Court to adjudicate and rehabilitate more youth without the collateral consequences of an adult conviction. If given the opportunity, I will make a positive impact and substantial contribution to the Family Court Bench.

- (11) Commission Members’ Comments:
The Commission commented that while Ms. Hendrick has not been a member of the Bar for an extended period of time, she shows an impressive ability and range of knowledge in the areas in which she practices.
- (12) Conclusion:
The Commission found Ms. Hendrick qualified and nominated her for election to Family Court, At-Large, Seat 8.

**Martha M. Rivers Davisson
Family Court, At-Large, Seat 8**

Commission’s Findings: QUALIFIED AND NOMINATED

- (1) Constitutional Qualifications:
Based on the Commission’s investigation, Ms. Rivers Davisson meets the qualifications prescribed by law for judicial service as a Family Court judge.
- Ms. Rivers Davisson was born in 1972. She is 45 years old and a resident of Williston, South Carolina. Ms. Rivers Davisson 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 1996.
- (2) Ethical Fitness:
The Commission’s investigation did not reveal any evidence of unethical conduct by Ms. Rivers Davisson.

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Ms. Rivers Davisson 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. Rivers Davisson reported that she has not made any campaign expenditures.

Ms. Rivers Davisson 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. Rivers Davisson 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. Rivers Davisson to be intelligent and knowledgeable. Her performance on the Commission's practice and procedure questions met expectations.

Ms. Rivers Davisson described her continuing legal or judicial education during the past five years as follows:

- (a) SCAJ Annual Convention 08/04/2011
- (b) Hot Tips from the Coolest Domestic 09/16/2011
- (c) RPWB Litigation Seminar 04/30/2011
- (d) SCWLA Ethics 01/05/2012
- (e) Family Court Bench Bar 12/07/2012
- (f) SCAJ Annual Convention 08/02/2012
- (g) Family Court Mediation Training 07/11/2013
- (h) 2013 SCAJ Annual Convention 08/01/2013
- (i) SCWLA U.S. Supreme Court Case Update 07/10/2014
- (j) Solo & Small Firm Conference & Tech Expo 09/19/2014
- (k) Abuse & Neglect Contract Attorney CLE Childrens Law Ctr 09/05/2014

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- (l) Techonolgy Tips for Lawyers from the Basics to Cyber Security 04/09/2015
- (m) Highlights of the Current Term of the Supreme Court of the United States 07/09/2015
- (n) Identifying Representation Issues: Strategizing Solutions 10/02/2015

Ms. Rivers Davisson reported that she has not taught or lectured at any Bar association conferences, educational institutions, or continuing legal or judicial education programs.

Ms. Rivers Davisson reported that she has published the following:

- (a) "The Leaner and Meaner Youthful Offender Act," South Carolina Lawyer, Volume 9, Number 3, November/December 1997.

(4) Character:

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

The Commission also noted that Ms. Rivers Davisson 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. Rivers Davisson reported that her rating by a legal rating organization, Martindale-Hubbell, is Distinguished.

(6) Physical Health:

Ms. Rivers Davisson appears to be physically capable of performing the duties of the office she seeks.

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- (7) Mental Stability:
Ms. Rivers Davisson appears to be mentally capable of performing the duties of the office she seeks.
- (8) Experience:
Ms. Rivers Davisson was admitted to the South Carolina Bar in 1996.

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

- (a) Judicial Clerk for the Honorable Thomas L. Hughston, Jr. of the Eighth Judicial Circuit from August 1996 to August 1997
- (b) Associate Attorney at Bedingfield & Williams, Barnwell, S.C., 1997 to 2000
At Bedingfield & Williams, I assisted in civil and criminal litigation, managed family court litigation and some civil and criminal litigation, supervised real estate closings, and prepared wills
- (c) Solo practitioner, Martha M. Rivers Attorney at Law 2001-present
Today, my practice is a majority of real estate work and domestic litigation in Aiken, Bamberg and Barnwell counties. I handle criminal cases, by appointment and through my private practice. I also maintain a small plaintiff's practice in the Second Judicial Circuit. Being a small town lawyer, I often prepare simple wills and other estate planning documents. For the past three years, I have been a 608 contract attorney, defending families in DSS abuse and neglect cases. I am in the courtroom regularly with my Family Court practice.

Ms. Rivers Davisson further reported regarding her experience with the Family Court practice area:

I have substantial experience in the areas of divorce, equitable distribution of property, child custody and visitation matters. I find that this type of law practice largely involves educating your client throughout the process of division of their former life. Early in my career, a client brought before me notebooks of letters between the two parents. A judge had gotten frustrated with their constant

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trips back to court and telephone communication, so he ordered all communication to be in writing. Because this was before smartphone days, written communication resulted in several notebook binders. The communication was meaningless as the parties had simply transferred their inability to communicate verbally to paper. That taught me that well intentioned and expedient rulings do not always lend positive results. As a Family Court judge, I want to craft a solution to the problem presented before me rather than creating future problems.

In matters of equitable distribution, I have handled a full range of issues. I have advocated for clients whose main asset was a home with negative equity. I have also been involved in distribution disagreements where the parties argued over every item of personal property, including cast iron pans. It is my common practice to verify property valuations, provide proof of valuations in cases as feasible, and to require my clients to produce documentation to me regarding the values of property. This helps my client make an informed decision during an emotional process. It helps me to explain the division of assets to my client and in negotiating with the opposing attorney. Another key element in representing clients in divorce actions is to identify all assets. Parties often do not think of retirement assets or know how to differentiate between pre-marital and marital assets.

I regularly handle matters of child custody and visitation as an advocating attorney and as a guardian ad litem. When child custody and visitation are issues in a case, I often remind clients that the end of litigation does not end their responsibility to their child or their interaction with the other parent. There will be graduations, school ceremonies, and weddings. Unless this is a situation of abuse or neglect, it is in the best interests of that child to feel the love and care of both parents. I express to my client that I hope I can help them structure a custody and visitation arrangement to make that possible for their child.

As a guardian ad litem, I routinely conduct home visits and interview relatives and friends regarding custody and visitation issues. I believe this work has given me invaluable experience that I can bring to the judiciary. As a guardian, I am not advocating for either parent. I am

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reviewing the evidence presented by both parents. My guardian work has made my legal practice stronger. Parents share with guardians very practical barriers they do not always relay to their attorneys. I have been able to apply this knowledge to my legal practice in advocating for parents.

I have some experience in the field of adoption. When approaching an adoption, I try to proceed with extreme caution. I do not want any procedural questions to prevent the adoptive family from having a wonderful family life. For example, I represented a young couple adopting their biological nephew. The biological mother relinquished her rights voluntarily and asserted that she had no knowledge of the identity of the father. Extensive questioning by me and the adoptive parents failed to change her response. Although it appeared we may be able to get by with a publication notice in South Carolina, I also published notice in the city and state where conception may have occurred. I want to make it as difficult as possible to raise any issue that would question the procedure of an adoption case. As a judge, I would scrutinize these cases with extreme care.

For the past three years, I have worked as what is commonly referred to as a 608 attorney with the Office of Indigent Defense (OID). As a 608 attorney, I am appointed to represent defendants in actions of abuse or neglect brought by the South Carolina Department of Social Services (DSS). This can be heartbreaking work as you see families suffering from the effects of drug addiction, alcohol addiction, domestic violence, general poverty, and mental health issues. With this work, I am in the courtroom several times a month handling multiple cases a day. My clients typically have poverty issues such as lack of employment and lack of transportation. They are not always responsive to me or to DSS. They may be hostile to the judicial system. All of my clients want to have their children back in their homes, although this is not always possible. I continue to volunteer as a guardian ad litem in abuse and neglect cases as I am able. Abuse and neglect litigation is a unique practice. I have enjoyed my work in this area and hope that I am helping these families navigate the judicial system.

Finally, I also have experience in the realm of juvenile justice. My experience in General Sessions court

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has given me a general knowledge of criminal law. Juvenile justice differs in the status offenses applicable to minors and the pre-trial procedure. Once, I represented a juvenile charged with armed robbery. I saw no logical reason a young man like him should be in the juvenile justice system as much as he had been. He was intelligent, had a caring family, and had the opportunity to excel in school. For the armed robbery charge, we reached a reasonable plea deal given the severity of the crime and the evidence presented. In this case, I saw how the juvenile justice system tries to rehabilitate juveniles to avoid adult criminal activity.

Ms. Rivers Davisson reported the frequency of her court appearances during the past five years as follows:

- (a) Federal: 0%
- (b) State: 100%
- (c) Other: 0%

Ms. Rivers Davisson reported the percentage of her practice involving civil, criminal, and domestic matters during the past five years as follows:

- (a) Civil: 5%
- (b) Criminal: 5%
- (c) Domestic: 45%
- (d) Other: 45%

Ms. Rivers Davisson reported the percentage of her practice in trial court during the past five years as follows:

- (a) Jury: 10%
- (b) Non-jury: 90%.

Ms. Rivers Davisson provided that she most often served as sole counsel.

The following is Ms. Rivers Davisson's account of her five most significant litigated matters:

- (a) Deloach, et al. v. Norfolk Southern (2005). In January 2005, a collision of Norfolk Southern trains in Graniteville, South Carolina, caused the release of toxic gas in an area known as the Valley. I represented a resident of the area for his own injuries, as an heir to his

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father who passed away from the exposure, and on behalf of his infant daughter who was in the house with them. I served as co-counsel with the Hulseley Litigation Group and with Lawrence Brown who represented other family members of the Deloach family. I was involved in the preparation of litigation documents, negotiations with the defendants and managed the state court proceedings. This case is significant because it involves mass tort litigation and because of the facts presented. A case of this type requires a significant commitment from the representing attorneys in both time and preparation. All of my cases involving the Graniteville train wreck were settled without trial.

- (b) Baltzegar v. Baltzegar (2004). This case involved the separation and divorce of a thirty-six year old marriage. Although the property division was important, the significance of the case was that Ms. Baltzegar had medical conditions that were potentially very serious in the future. The uncertainty of her medical needs made health insurance imperative for her. Mr. Baltzegar had medical issues as well, making retirement seem more appealing. Neither party was close to social security age at the time of the litigation and all non-employer based health insurance was not financially possible due to the wife's medical condition. Both parties wanted a divorce. This case demonstrated that the most important asset may not be a physical asset held by either party. Furthermore, the court is often limited in how it can assist. A settlement was reached with an attempt to address the health insurance issue. Ten years later the matter came up again and was resolved with finality. The Family Court is a court where litigated matters are not final in all circumstances. It is important to be thoughtful and purposeful in these matters as the issues may continue for many years.
- (c) Pennicuff v. Pennicuff (2005). I served as the Guardian ad Litem for two minor children who were in the physical custody of their mother. The mother moved from Georgia to Ohio without making provisions for father's visitation. The father brought an action for change in custody or to address his visitation. During

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the investigation, questions arose regarding the stability of the children in mother's custody. With the assistance of an attorney in Ohio, we were able to present a full and accurate report of the status of these children to the South Carolina court which led to a change in custody. As the guardian, I pushed for court time to bring this matter to a hearing and brought out issues that neither attorney addressed for the mental and physical health of the children. The parties were limited financially and the docket was very limited. This case demonstrated the need for a Guardian advocate for the minor children to move the case forward for the benefit and protection of the children. The attorneys are representing their individual clients and may have other issues to consider.

- (d) Thomas v. Thomas (2004) I represented the plaintiff/wife in this action for divorce. The parties were married in 1971. Defendant/husband had been employed and managed the family farm. There were allegations of psychological and physical spousal abuse by the defendant who appeared in court claiming to have several physical disabilities. With the help of local law enforcement, we were able to prove that defendant's physical condition did not prevent the stalking and harassment that plaintiff continued to allege. This was essential in reaching a favorable settlement that involved support and a marital property settlement. I believe my client's physical safety was seriously threatened. The defendant/husband was presenting himself to the court and his attorney as unable to accomplish the acts he was accused of. Thankfully, my client remained physically safe during the time it took to prove her husband's deceit to the court.
- (e) State v. David M. McClure, Jr., S.C. Opinion No. 25193, 537 SE 2d 273 (2000). While I was an associate at Bedingfield & Williams, Walter Bedingfield was appointed lead defense counsel for the first death penalty trial in Barnwell County. As his associate, I assisted in all pre-trial matters, met with expert witnesses, met with the client, conducted research, and assisted in trial preparations. Even though I was not a named attorney on this case, I cannot think of a more

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significant case in my career. David was a young man convicted of killing his father and his father's girlfriend. As a litigator, this case was significant for me in learning the preparation required for such a case and the voluminous legal issues presented. Mr. McClure had confessed and was convicted by the jury. During the death penalty phase, he was sentenced to death. As an associate, I attended all client meetings, conducted research, prepared motions, attended all hearings, and assisted at trial. I met with experts and reviewed all evidence in this case. The penalty verdict was later overturned for improper comment upon the defendant's right to remain silent. Several years later, the appeal was resolved with Mr. McClure sentenced to life without parole. I did not work on the appeal in any manner.

Ms. Rivers Davisson reported she has not personally handled any civil or criminal appeals.

Ms. Rivers Davisson further reported the following regarding unsuccessful candidacies:

I ran for the South Carolina House of Representatives District 91 seat in the special election held in April 1999. I lost to the Honorable Lonnie Hosey, who still serves in that seat. In 2014, I ran for Barnwell School District #29 school board and was defeated by Ms. Ferlecia Cuthbertson.

I was a nominated candidate for S.C. Family Court At Large #5 in January 2013 following the Fall 2012 judicial screening. I withdrew as a candidate. The seat went to an election between the Hon. Melissa Buckhannon and Hon. Randall E. McGee. Judge McGee still holds that seat.

(9) Judicial Temperament:

The Commission believes that Ms. Rivers Davisson's temperament has been, and would continue to be, excellent.

(10) Miscellaneous:

The Midlands Citizens Committee on Judicial Qualifications found Ms. Rivers Davisson to be "Well Qualified" in the evaluative criteria of ethical fitness, professional and academic

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ability, character, reputation, and experience, and “Qualified” in the remaining evaluative criteria of constitutional qualifications, physical health, mental stability, and judicial temperament. The Citizens Committee went on to say that she “has the necessary experience to serve on the Family Court bench. She has a good demeanor, but there was a feeling by this committee that she was just a little flippant about some things, so there was some question about her judicial temperament.”

Ms. Rivers Davisson is married to Douglas R. Davisson. She has three children.

Ms. Rivers Davisson reported that she was a member of the following Bar associations and professional associations:

- (a) S.C. Bar Association
- (b) American Bar Association
- (c) S.C. Women’s Lawyers Association

Ms. Rivers Davisson provided that she was a member of the following civic, charitable, educational, social, or fraternal organizations:

- (a) Williston Ivy Garden Club
- (b) Williston United Methodist Church
- (c) Williston Country Club (not a current member)
- (d) Barnwell United Methodist Church
- (e) Aiken Civic Ballet Company Board
- (f) Williston-Elko School District Facilities Study Committee, Secretary 2015/2016

Ms. Rivers Davisson further reported:

Regardless of your background, many litigants lack foresight into his/her situation and succumb to the emotional nature of Family Court litigation. I hope to present a calm and friendly demeanor to each litigant who comes into court. As we have an increasing number of self-represented litigants, I want to maintain respect in the court while allowing each party to feel as if she or he has had the opportunity to fairly present a case.

For over fifteen years years, I have maintained a general practice law firm in rural South Carolina. Although this is not a unique practice in our state, it certainly is an

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interesting perspective on life in South Carolina and provided me with insights on how the Family Court and other courts affect lives in myriad ways. I have advised families with their child or grandchild facing charges through juvenile justice. I have represented children before the local school board, and participated in DSS hearings as an advocate and as a volunteer guardian ad litem. As a private practitioner, I regularly act as a guardian ad litem in cases in Barnwell County. Many of my clients live in poverty conditions and have shown me the struggles of raising families with limited resources. Most litigants fear the judicial system and are suspicious of government administration. My Family Court experience will aid me in serving the litigants who come before me, and I will strive to be both respectful and fair in all of my actions.

While maintaining my law practice, I am raising three lovely girls with my husband of twenty-one years. My children have made me a better lawyer. I have managed a law practice while meeting the demands of parenting with the help of many.. An at-large judgeship would require travel away from home, but my husband, parents and extended family would continue to provide support for me and my children.

As a judge, I would use the knowledge I have as a mother, wife, and litigating attorney for 20 years to work with the South Carolina Bar, other members of the court system, and other stakeholders to make the judicial process more efficient and effective, especially for cases involving children.

- (11) Commission Members' Comments:
The Commission noted Ms. Rivers Davisson's broad range of work experiences, including her extensive work in the Family Court.
- (12) Conclusion:
The Commission found Ms. Rivers Davisson qualified and nominated her for election to Family Court, At-Large, Seat 8.

**ADMINISTRATIVE LAW COURT
QUALIFIED AND NOMINATED**

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**Milton G. Kimpson
Administrative Law Court, Seat 2**

Commission's Findings: QUALIFIED AND NOMINATED

(1) Constitutional Qualifications:

Based on the Commission's investigation, Mr. Kimpson meets the qualifications prescribed by law for judicial service as an Administrative Law Court judge.

Mr. Kimpson was born in 1961. He is 56 years old and a resident of Columbia, South Carolina. Mr. Kimpson 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 Mr. Kimpson.

Mr. Kimpson 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. Kimpson reported that he has made \$94.00 in campaign expenditures for postage.

Mr. Kimpson 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. Kimpson testified that he is aware of the Commission's 48-hour rule regarding the formal and informal release of the Screening Report.

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- (3) Professional and Academic Ability:
The Commission found Mr. Kimpson to be intelligent and knowledgeable. His performance on the Commission's practice and procedure questions met expectations.

Mr. Kimpson described his continuing legal or judicial education during the past five years as follows:

<u>Conference/CLE Name</u>	<u>Date(s)</u>
(a) SC Black Lawyers Association Annual Retreat	9/17/15
(b) Richland Co. Bar Association Ethics	11/06/15
(c) Appellate Practice	2/16/16
(d) Edventures in Administrative Law	2/19/16
(e) SC Black Lawyers Association Annual Retreat	9/19/14
(f) State and Local Tax Seminar	10/3/14
(g) Cybersleuths Guide to the Internet	1/15/15
(h) SCAGO Case Law Update	8/16/13
(i) SC Black Lawyers Association Annual Retreat	9/26/13
(j) State and Local Tax Seminar	11/8/13
(k) SC Administrative Law	1/10/14
(l) North/South Carolina Tax Conference	5/25/12
(m) SC Black Lawyers Assoc. Retreat	9/26/12
(n) SC Procurement Code Overview	10/11/12
(o) SC Department of Revenue Tax Seminar	10/16/12
(p) Property Taxes and Internal Audit	3/23/11
(q) Getting Started On Westlaw	6/8/11
(r) Department of Revenue Practice	6/17/11
(s) Sales and Use Tax Seminar	6/29/11
(t) Internet for Lawyers	8/19/11
(u) SCAARLA Ethics Seminar	10/7/11
(v) SC Black Lawyers Annual Retreat	10/14/11

Mr. Kimpson reported that he has taught the following law-related courses:

- (a) I gave a presentation on Travelscape v. SC Department of Revenue, 391 S.C. 89, 705 S.E.2d 28 (2011), to Multi-State Tax Commission Litigation Committee Meeting in Nashville, TN, March 8, 2012.
- (b) I was one of presenters for the SCAGO CLE: Department of Revenue Practice, June 17, 2011

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- (c) I gave SC Case Law Update presentation to Columbia Tax Study Group on October 16, 2012 (with another SCDOR lawyer)
- (d) I gave SCDOR Case Law presentation at CPA Summit and Annual Meeting, November 1, 2012
- (e) I gave SCDOR Case Law Update at State and Local Tax Seminar, March 21, 2013
- (f) I gave a presentation on SCDOR Data Breach Cyber Security Seminar hosted by State of Wisconsin, in Milwaukee, WI, Oct. 14, 2013
- (g) I gave SCDOR Case Law Update presentation to SC Bar Tax Section during SC Bar Convention, Jan. 24, 2015
- (h) I gave SCDOR Case Law Update presentation to Columbia Tax Study Group, February 14, 2015 (with another SCDOR lawyer)
- (i) I spoke at SC Black Lawyers Retreat on the Certificate of Need Program and Regulatory Practice at SC Department of Revenue, Sept. 17, 2015

Mr. Kimpson reported that he has published the following:

- (a) South Carolina Practice Manual – Criminal Law, Volume Three (SC Bar CLE 2003), Contributing Author, Chapter on Military Law

(4) Character:

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

The Commission also noted that Mr. Kimpson 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. Kimpson reported that his rating by a legal rating organization, Martindale-Hubbell, is Distinguished, 4.4 out of 5.

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Mr. Kimpson reported the following military service:

I served on active in the United States Army as an officer in the Judge Advocate General's Corps (JAGC) from January 1987 through December 1991 and continued service in the US Army Reserves from 1992-1995. My highest rank was Captain and I received an Honorable Discharge. I have no current status with the military.

Mr. Kimpson reported that he has held the following public office:

I currently serve as a Deputy Director and General Counsel for Litigation at the Department of Revenue. In this position, I have been required to file an annual report with the State Ethics Commission. I have always filed timely reports when required.

(6) Physical Health:

Mr. Kimpson appears to be physically capable of performing the duties of the office he seeks.

(7) Mental Stability:

Mr. Kimpson appears to be mentally capable of performing the duties of the office he seeks.

(8) Experience:

Mr. Kimpson was admitted to the South Carolina Bar in 1986.

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

- (a) SC Department of Health and Environmental Control, clerk position and brief stint as staff attorney practicing administrative law until entry into U.S. Army; August 1986 – December 1986
- (b) JAGC, Ft. Sill, Oklahoma, Legal Assistance Officer (general practice, assisting military members, families and retirees), March 1987- June 1988; Military Prosecutor; July 1988 – March 1990
- (c) JAGC, Ft. Jackson, SC; Chief, Legal Assistance Officer general practice, assisting military members, families and retirees); military magistrate (whether to impose pretrial confinement for military personnel accused of crimes); March 1990 – December 1991.

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- (d) Johnson, Toal & Battiste, P.A., Jan. 1992- Dec. 1993. General Practice, including personal injury, real estate, family law, civil litigation.
- (e) Glenn Walters, P.A., Jan. 1994 – Mar 1994. General Practice.
- (f) Gerald & Kimpson, P.A., March 1994 – Dec. 1998. General Practice, including civil litigation, family law, personal injury, real estate
- (g) Milton G. Kimpson. P.A., Jan. 1999 – Dec. 2002. General Practice, including civil litigation, family law, personal injury, real estate
- (h) SC Department of Revenue, Jan 2003 to present. State tax and regulatory law.

Mr. Kimpson further reported regarding his experience with the Administrative Law Court practice area:

Since joining the Department of Revenue in 2003, I have practiced primarily before the Administrative Law Court (ALC). Under the Revenue Procedures Act, a taxpayer/licensee has the right to appeal a Department Determination by filing for a contested case hearing at the ALC; the ALC is the trial court for these matters. I have been lead counsel on a variety of cases at the ALC, including income and sales tax assessments, sales tax exemptions, refund claims, tax credits, alcohol/beer regulatory violations and licensing issues. Much of this litigation involves statutory interpretation, issues related to the Commerce and Due Process Clauses of the United States Constitution (jurisdiction to tax) and often requires extensive trial preparation, discovery and the use of expert witnesses. As a staff litigation attorney, I appeared at the ALC frequently in actual trials, pretrial motions and hearings in regulatory violations and licensing matters. As the manager of the Department's Honors Tax Litigation program, my ALC appearances ramped up even more as I sat second chair to our young attorneys in a training and mentoring capacity, in addition to handling my own active caseload. I became the Department's General Counsel for Litigation in April 2010, responsible for the management of all Department litigation. While the number of cases in which I actually participate as a litigant has been reduced, I still appear at the ALC on selected cases and am involved in review of briefs and proposed orders for all significant ALC cases.

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Mr. Kimpson reported the frequency of his court appearances during the past five years as follows:

- (a) federal: infrequent. There is one court case, CSX v. SC Department of Revenue, et al., Case No. 3:14-cv-03821-MBS that was litigated in November 2015 and is on appeal to United States Court of Appeals for the Fourth Circuit.
- (b) state: frequent with majority at the ALC, some Circuit Court and in Appellate courts.

Mr. Kimpson reported the percentage of his practice involving civil, criminal, and domestic matters during the past five years as follows:

- (a) Civil: 10%;
- (b) Criminal: 0%;
- (c) Domestic: 0%;
- (d) Other: administrative state tax and regulatory cases -- 90%.

Mr. Kimpson reported the percentage of his practice in trial court during the past five years as follows:

- (a) Jury: 0%;
- (b) Non-jury: 100% SC DOR cases before ALC are non-jury, bench trials.

Mr. Kimpson provided that he most often served as lead counsel or sole counsel.

The following is Mr. Kimpson's account of his five most significant litigated matters:

- (a) Travelscape v. SC Department of Revenue, 391 S.C. 89, 705 S.E.2d 28 (2011). Lead counsel in contested case hearing at the Administrative Law Court (ALC) seeking to hold online travel company liable for sales taxes on accommodations on gross proceeds received from the rental of hotel rooms in South Carolina pursuant to SC Code Ann. 12-36-920. ALC ruling for the Department upheld on appeal to South Carolina Supreme Court. This decision was among the first in the nation upholding a state revenue department's assessment of

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state sales taxes against online travel company and has been used by the Department as a basis to collect sales taxes from the online travel industry.

- (b) Home Medical Systems v. SC Department of Revenue, 382 S.C. 556, 677 S.E.2d 582 (2009). Lead counsel in contested case at Administrative Law Court (ALC) in which taxpayer obtained ruling that sales of certain prosthetic devices were exempt from sales and use taxes pursuant to SC Code Ann. 12-36-2120(28) (a). On appeal, South Carolina Supreme Court reversed the ALC and approved the tests used by the Department to determine when prosthetic devices and medicines sold by prescription were exempt from sales tax, which is a reoccurring sales tax issue for the Department. The Court also firmly established that it was appropriate to use motions for reconsideration under Rule 59(e), SCRCP, at the ALC (case occurred prior to recent ALC rules changes broadening use of motions for reconsideration).
- (c) Drummond v. SC Department of Revenue, 378 SC 362, 662 S.E.2d 587 (2008). Class action lawsuit filed in Circuit Court challenging the Department's administration of sales tax exemption for diabetic supplies under SC Code Ann. 12-36-2120(28) (b) and seeking a refund of sales taxes paid on the sales of such items. The Circuit Court granted Department's motion to dismiss case based on Plaintiff's failure to exhaust administrative remedies under the Revenue Procedures Act, SC Code Ann. 12-60-10., et seq. (RPA). On appeal, the South Carolina Supreme Court upheld the dismissal of causes of action seeking sales tax refund because Plaintiff failed to pursue remedies under the RPA. The Supreme Court also recognized that SC Code Ann. 12-60-80 (C) barred the Department from being sued in a class action lawsuit. Case remanded for trial pursuant to SC Code Ann. 1-23-150 on whether regulation exceeded scope of exemption statute. After trial on the merits in Circuit Court, Special Circuit Court Judge ruled in Department's favor finding that regulation did not exceed statutory authority. I argued the case on appeal to the SC Supreme Court and served

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as lead counsel in the case on remand. This case is significant because the Court recognized the broad scope of the RPA.

- (d) Anonymous Company A and Anonymous Company B v. SC Department of Revenue, 401 S.C. 513, 678 S.E.2d 255 (2009). After a contested case hearing, the Administrative Law Court ruled that finance company financing consumer retail debt for automobile purchases was eligible for refund of sales taxes on bad debts pursuant to SC Code Ann. 12-36-90(2)(h). The Department appealed and circuit court affirmed. On further appeal, the South Carolina Supreme Court reversed, finding that that bad debt sales tax deduction was only available to retailer of tangible personal property and not finance company. Finance companies across the United States were filing claims for refund for sales taxes on bad debts generated by automobile sales such that the Department was able to deny these refund claims based on this decision. I served as lead counsel at trial and argued the appeals at circuit court and the Supreme Court.
- (e) CSX Transportation v. SC Department of Revenue, et al., Civil Action No. 3:14-cv-03821 -MBS (U.S. District Court for South Carolina, June 7, 2016) CSX Transportation filed suit in federal district court alleging that the failure to extend SC Act 388's 15% cap on property value increases for property tax purposes to real property owned by railroads violated Section 306(1)(d) of the Railroad Revitalization and Regulatory Reform Act of 1976 (4-R Act), 49 U.S.C. § 11501(b)(4). The Plaintiff pursued its case solely under subsection (b)(4) of the 4-R Act which prohibits states from "imposing another tax which discriminates..." against railroads. After a bench trial, the Court ruled in the Department's favor finding that Plaintiff's claims could not be pursued under § 11501(b)(4) because SC Act 388 did not impose "another tax." This ruling is significant because it recognized limitations to breadth of 4-R Act discrimination challenges under subsection (b)(4). Case is now on appeal to United States Court of Appeals for

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the Fourth Circuit. I served as lead counsel during the trial.

The following is Mr. Kimpson's account of five civil appeals he has personally handled:

- (a) Travelscape v. SC Department of Revenue; SC Supreme Court; issued Jan. 13, 2011; 391 S.C. 89, 705 S.E.2d 28 (2011).
- (b) Home Medical Systems v. SC Department of Revenue; SC Supreme Court; issued April 20, 2009; 382 S.C. 556, 677 S.E.2d 582 (2009)
- (c) Drummond v. SC Department of Revenue; SC Supreme Court; issued June 2, 2008; 378 SC 362, 662 S.E.2d 587 (2008)
- (d) Anonymous Company A and B v. SC Department of Revenue, SC Supreme Court; issued June 1, 2009; 401 S.C. 513, 678 S.E.2d 255 (2009)
- (e) Lexington Health Services District v. SC Department of Revenue, SC Court of Appeals; issued July 22, 2009; 384 S.C. 647, 682 S.E.2d 508 (Ct. App. 2009)

Mr. Kimpson reported that he has not personally handled any criminal appeals.

- (9) Judicial Temperament:
The Commission believes that Mr. Kimpson's temperament would be excellent.
- (10) Miscellaneous:
The Midlands Citizens Committee on Judicial Qualifications found Mr. Kimpson to be "Well Qualified" in the evaluative criteria of ethical fitness, professional and academic ability, character, reputation, experience, and judicial temperament, and "Qualified" in the remaining evaluative criteria of constitutional qualifications, physical health, and mental stability. The Committee found that based on the evaluative criteria, Mr. Kimpson meets and exceeds the requirements in each area. The Committee also added in comment; "Mr. Kimpson impressed everyone on our committee with his knowledge, experience and demeanor. He has varied legal experience including the necessary experience in matters that come before the

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Administrative Law Court.”

Mr. Kimpson is married to Audra Sabb Kimpson. He has two children.

Mr. Kimpson reported that he was a member of the following Bar associations and professional associations:

- (a) SC Bar Association
- (b) Richland County Bar Association
- (c) SC Black Lawyers Association
- (d) Military Law Section of SC Bar
- (e) American Bar Association
- (f) SC Administrative and Regulatory Law Association, Board of Directors, 2012 to present

Mr. Kimpson provided that he was a member of the following civic, charitable, educational, social, or fraternal organizations:

- (a) Greater Columbia Community Relations Council, Chairman, June 2016 to present
- (b) Eau Claire Development Corporation, Secretary, June 2014 to present
- (c) Cooperative Ministries, Board of Directors, January 2016 to present
- (d) Citizens Center for Public Life, Board of Directors
- (e) Omicron Phi Chapter, Omega Psi Phi Fraternity, Inc., Counselor, November 2010 to present
- (f) Omega Men of Columbia – Omicron Phi, Inc., Secretary, Jan. 2014 to present
- (g) Promise Foundation, Treasurer, Nov, 2010 to present
- (h) Sigma Pi Phi Fraternity, National Officer, June 2014 to June 2016
- (i) Alpha Iota, Sigma Pi Phi Fraternity, Secretary, November 2010 to present
- (j) SC Memorial Park Commission, Board of Directors
- (k) St. John Baptist Church, Board of Deacons; May 2002 to the present
- (l) DOR Communicators (Toastmasters), Secretary, June 2010 to present

Mr. Kimpson further reported:

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I have practiced in the South Carolina courts, both at the trial and appellate level, for over twenty years. I appreciate those judges who are prepared to hear cases in terms of reviewing available pleadings, pretrial briefs and other documents filed by the litigants. I am most impressed with those judges who actively listen, consider and carefully weigh the arguments of both sides of a dispute and who avoid appearing partial to either side. Finally, I am appreciative of those judges who have experienced the pressures of a busy trial practice, are accommodating and courteous to the parties and their lawyers and who are timely in decision-making. I have been incredibly fortunate during my career to have appeared before many judges who have demonstrated these characteristics. I aspire to demonstrate those same attributes.

- (11) Commission Members' Comments:
The Commission commented on the strength and depth of Mr. Kimpson's intellect and experience with matters before the Administrative Law Court.
- (12) Conclusion:
The Commission found Mr. Kimpson qualified and nominated him for election to Administrative Law Court, Seat 2.

Grady L. (Leck) Patterson III
Administrative Law Court, Seat 2.

Commission's Findings: QUALIFIED AND NOMINATED

- (1) Constitutional Qualifications:
Based on the Commission's investigation, Mr. Patterson meets the qualifications to sit on the Court of Appeals.
- Mr. Patterson was born in 1952. He is 64 years old, and a resident of Columbia, South Carolina. Mr. Patterson 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:

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The Commission's investigation did not reveal any evidence of unethical conduct by Mr. Patterson.

Mr. Patterson 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. Patterson reported that he has not made any campaign expenditures.

Mr. Patterson 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. Patterson 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. Patterson to be intelligent and knowledgeable. His performance on the Commission's practice and procedure questions met expectations.

Mr. Patterson described his continuing legal education during the past five years as follows:

Conference/CLE Name

Date(s)

- (a) Richland County Bar Ethics Seminar
11/04/11
- (b) 21st Annual Criminal Practice in South Carolina
02/24/12
- (c) Civil Litigation: Deposition to Trial and Beyond
02/28/12
- (d) Richland County Bar Ethics Seminar
11/09/12

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- (e) Lexington County Bar Annual Ethics CLE
12/06/12
- (f) Benefits for Veterans and Their Families
02/12/13
- (g) Lawyers Tackle Evidence
02/15/13
- (h) Ethics with the Judges (Sporting Clays)
04/25/13
- (i) Lexington County Bar Annual Ethics CLE
12/17/13
- (j) Top Lawyers Tackle Evidence
02/21/14
- (k) 2014 Tort Law Update
02/27/14
- (l) Ethics with the Judges (Sporting Clays)
04/24/14
- (m) Ethics with the Judges (Sporting Clays)
10/23/14
- (n) Richland County Bar Ethics Seminar
11/07/14
- (o) Top Lawyers Tackle Evidence
02/20/15
- (p) 24th Annual Criminal Practice in South Carolina
02/27/15
- (q) Ethics with the Judges (Sporting Clays)
10/22/15
- (r) Richland County Bar Ethics Seminar
11/06/15
- (s) Top Lawyers Tackle Evidence
02/19/16

Mr. Patterson reported that he has taught the following law–related courses:

- (a) Discovery in Administrative Proceedings, CLE
Columbia, SC
- (b) Soldiers' and Sailors' Civil Relief Act, CLE
Columbia, SC
- (c) Deployment Issues, U.S. Air Force CLE Denver, CO
- (d) Domestic Violence and the Military, U.S. Air Force CLE
Denver, CO

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- (e) Advocating the Rights of Service Members, CLE
Columbia, SC
- (f) Commander Legal Issues, Regular Lecturer at
Commander's Course for several years Knoxville,
TN
- (g) Drug Forfeiture Act, Solicitors' Association Conference
Myrtle Beach, SC

Mr. Patterson reported that he has published the following:

- (a) Civil Forfeiture Manual (South Carolina Attorney General,
1984), Co-author.
- (b) Materials for lectures set forth in items (a) through (e) in
No. 11 above.

(4) Character:

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

The Commission also noted that Mr. Patterson 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. Patterson reported that he has received an AV rating from Martindale-Hubbell.

Mr. Patterson reported that he has never held a public office.

(6) Physical Health:

Mr. Patterson appears to be physically capable of performing the duties of the office he seeks.

(7) Mental Stability:

Mr. Patterson appears to be mentally capable of performing the duties of the office he seeks.

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(8) Experience:

Mr. Patterson was admitted to the South Carolina Bar in 1979.

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

(a) South Carolina Attorney General's Office, 1979–1985

Upon completion of law school and admission to the South Carolina Bar I began practicing law with the South Carolina Attorney General's Office. I was involved in a number of areas of the law including worker's compensation, tort claims, condemnation actions, construction law claims, enforcement actions for State agencies, drug forfeiture actions, tender offer actions, licensing board hearings, and writing legal opinions.

In connection with my worker's compensation work I represented the State Worker's Compensation Fund in all compensation cases involving the Fund which arose in one of the seven South Carolina Industrial Commission administrative districts. I also handled tort claims against the State and State employees.

Another significant aspect of my work with the Office concerned construction law. I was involved in contract drafting, contract administration, arbitration, and litigation. I also handled drug forfeiture actions for law enforcement agencies.

A major responsibility of attorneys in the Attorney General's Office was representation of State agencies. Representation included defending agencies against suits, prosecuting enforcement actions for licensing agencies, and rendering opinions. In connection with representing the Deputy Securities Commissioner I worked with review of tender offer securities transactions. I appeared before the Fourth Circuit Court of Appeals in defense of State tender offer review action.

I was involved in two cases brought in the original jurisdiction of the United States Supreme Court. The first concerned the South Carolina – Georgia boundary and the second concerned registration of state-issued bonds.

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In addition, I was assigned to the Attorney General's Legislative Task Force which drafted and presented proposed legislation to the General Assembly.

(b) Quinn, Patterson & Willard, 1985–1999

I entered private practice in 1985 with the Columbia firm of Quinn, Brown & Arndt, which later became Quinn, Patterson & Willard. The practice concentrated on business litigation. It was mainly a defense practice although a significant amount of plaintiffs' work was done. Contracts, business torts, unfair trade practices, and other business issues were the primary subjects of our practice. I also did condemnation actions, bankruptcy cases, and a case in the United States Court of Federal Claims.

I handled a number of appeals including appeals to the South Carolina Supreme Court, the South Carolina Court of Appeals, and the United States District Court.

(c) Montgomery, Patterson, Potts & Willard, L.L.P., 2000–2008

My practice at Montgomery, Patterson, Potts & Willard was similar to my practice at Quinn, Patterson & Willard. It centered on business issues and insurance defense. The business practice included both corporate work and litigation. Contracts, including leases, and business torts were a large part of the business litigation.

(d) Patterson Law Offices, LLC, 2008–present

In April 2008 I started Patterson Law Offices, LLC. My practice consists primarily of litigation and corporate work. Litigation covers a broad area but focuses on contracts, leases, business torts, and construction law. Corporate work includes drafting of various contracts, leases, and other corporate documents.

(e) South Carolina Air National Guard, 1981–2003

In addition to my regular practice I have been a Judge Advocate in the South Carolina Air National Guard. After joining the Air Guard I attended Air Force law school where I finished first in my class. I was designated a Judge Advocate by the United States Air Force and in my military legal work I prosecuted and defended airmen subject to discharge before discharge boards. I have also served as the legal advisor to boards which is a role similar to the role of a judge for the

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hearing. My judge advocate work included issues ranging from the law of armed conflict to preparing wills for deploying troops. During the course of my military career I received biennial update training in criminal and civil law. In 2003 I moved from the JAG position to become a line officer. Following command positions I was appointed the South Carolina Assistant Adjutant General for Air in which position I served until 2012.

Mr. Patterson reported the frequency of his court appearances during the past five years as follows:

- (a) Federal: Average of less than one per year.
- (b) State: Average of approximately six times per year.
- (c) Other: N/A

Mr. Patterson reported the percentage of his practice involving civil, criminal, and domestic matters during the past five years as follows:

- (a) Civil: 92%;
- (b) Criminal: 8%;
- (c) Domestic: 0%;
- (d) Other: 0%.

Mr. Patterson reported the percentage of his practice in trial court during the past five years as follows:

- (a) Jury: 95%;
- (b) Non-jury: 5%.

The following is Mr. Patterson's account of his five most significant litigated matters:

- (a) Altman, et al. v. First Citizens Bank and Trust Company, Inc., et al. Suit brought by thirty-nine customers of a bank for failure to adequately protect personal identifying information which had been stolen. The case involved issues of negligence, breach of fiduciary duty, and unfair trade practices, among others. Significant issues included the sources of and extent of the bank's duties to its customers and application of both the "unfair" and "deceptive" prongs of the unfair trade practices act. In addition, an insurance company filed a declaratory

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judgment action in the United States District Court for the District of South Carolina entitled Nationwide Mutual Fire Insurance Company v. First Citizens Bank and Trust Company, Inc. et al. to obtain a declaratory judgment that the policy it issued did not apply to the loss alleged. We also represented the thirty-nine customers who were named as defendants in that case.

- (b) H. Thomas Taylor v. Terry L. Cash, et al. (more than twenty cases). Suit by lessor of nursing homes who was former business partner of the individual defendant. We represented the individual defendant and the defendant companies. Plaintiff lessor sought a declaratory judgment, alleged fraud, alleged breach of contract, sought claim and delivery of equipment, and sought ejectment of the lessees in connection with transfer of leases of six nursing homes and related covenants not to compete. Numerous issues resulted in more than twenty suits being brought in or removed to Bankruptcy Court and handled as adversary proceedings. Four trials were held (including a number of cases consolidated for trial). Three of the cases were appealed to the United States District Court where they were briefed and argued. One of the cases was appealed to the United States Fourth Circuit Court of Appeals where the issues were briefed prior to settlement. A significant trial involved the issue of whether plaintiff could sell the nursing homes and, thereby, eliminate defendants' interests. We were successful in preventing the sale. The case involved issues of first impression and is reported at In re Taylor, 198 B.R. 142 (D.S.C. 1996).
- (c) Turner Murphy Company v. City of York (two cases). Suit by contractor against the City of York, South Carolina, for the balance of the contract price on construction of new wastewater treatment plant. Represented the City of York in a two-week jury trial. The case was significant due to the number of issues involved including complex administrative issues involving the U.S. Environmental Protection Agency. The second suit was brought several years later by the City against the contractor and engineer for defective work when a concrete filter structure leaked.

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Three-day jury trial in the York County Circuit Court resulted in a verdict for the City.

- (d) F.D.D. Ltd. v. GMK Construction, et al. (two cases). I represented the plaintiffs in a suit prosecuted by the homeowners' association of a residential development. Suit was brought against the contractor, subcontractor, and engineer for defects in roadways and piping system in the development. Settled with contractor and subcontractor. Week long jury trial in the United States District Court for the District of South Carolina against the engineer resulted in verdict for the homeowners' association. Verdict and settlement amounts provided sufficient funds for the homeowners' association to effect all needed remedial work.
- (e) Griggs v. Southern Electronic Manufacturing Company. Suit by manufacturer's representative against manufacturer alleging breach of an agreement to pay the representative an ongoing commission. The case involved a significant issue of whether sales commissions can be received as long as a business sells to the customer introduced by the representative. I represented the defendant and obtained summary judgment for the client.

The following is Mr. Patterson's account of five civil appeals that he has personally handled:

- (a) Rumpf, et al. v. Massachusetts Mutual Life Insurance Company, et al., 357 S.C. 386, 593 S.E.2d 183 (Ct.App. 2004). This case involved a trucking company which entered a contract with Massachusetts Mutual to provide a pension plan for the company's employees. The contract gave retirement benefits to employees in the form of annuities. The issue was whether the pension plan administrator, who was deceased at the time the case was brought, had let the statute of limitations run on claims against the annuity provider. Summary judgment was granted to Defendant and the decision was upheld on appeal.
- (b) Rowe v. Hyatt, 321 S.C. 366, 468 S.E.2d 649 (1996). This case involved the question of whether an individual owner who did not participate in the sale of an automobile could be liable under the Automobile Dealers Act, S.C. Code

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Ann. Section 56-15-10, et seq. (Supp. 1998). Court of Appeals decision reported: Rowe v. Hyatt, 317 S.C. 172, 452 S.E.2d 356 (Ct.App. 1995).

- (c) D & D Leasing Co. of South Carolina v. David Lipson, Ph.D., P.A., 305 S.C. 540, 409 S.E.2d 794 (Ct.App. 1991). This case involved the issue of whether an automobile lease termination clause which provided for acceleration of unpaid lease payments and sale of the repossessed automobile was valid.
- (d) D & D Leasing Co. of South Carolina v. Gentry, 298 S.C. 342, 380 S.E.2d 823 (1989). This case involved the question of whether a commercial lease of personality was governed or controlled by Article 2 (Sales) of the Uniform Commercial Code.
- (e) Gosnell v. South Carolina Department of Highways and Public Transp., 282 S.C. 526, 320 S.E.2d 454 (1984). This case involved the question of whether a directed verdict should have been granted to the Department in a collision case arising out of work being done on a highway.

The following is Mr. Patterson's account of criminal appeals that he has personally handled:

I drafted numerous briefs while working as a clerk in the Criminal Appeals Section of the South Carolina Attorney General's Office but have not prepared any for which I was personally responsible as an attorney.

- (9) Judicial Temperament:
The Commission believes that Mr. Patterson's temperament would continue be excellent.
- (10) Miscellaneous:
The Pee Dee Citizens Committee on Judicial Qualifications reported that Mr. Patterson is "Well Qualified" in the evaluative criteria of ethical fitness, character, professional and academic ability, reputation, and judicial temperament, and "Qualified" in the remaining evaluative criteria of constitutional qualifications, physical health, mental stability, and experience.

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Mr. Patterson is married to Sarah Jordan Patterson. He has three children.

Mr. Patterson reports that he is a member of the following Bar and professional associations:

- (a) South Carolina Bar
 - Member of the House of Delegates, Fifth Judicial Circuit (1992 - 1998)
 - Chairman of the Military Law Section (1990 - 1991)
 - Member of the House of Delegates for Military Law Section (1991 - 1992)
 - Member of the Military Law Section
 - Member of the Committee on Continuing Education
- (b) Richland County Bar Association
 - Member of the Clerk of Court Committee
- (c) Air Force Association
- (d) American Legion
- (e) National Guard Association of the United States
 - National Conference Delegate from SC (2005 – 2012 and 2015)
- (f) National Guard Association of South Carolina
 - President
 - President-Elect
 - Executive Council
 - By-Laws Committee Chairman

Mr. Patterson provided that he is a member of the following civic, charitable, educational, social, or fraternal organizations:

- (a) South Carolina Aerospace Task Force Advisory Board
- (b) Governor's Military Base Task Force (Adjutant General Designee)
 - Executive Committee (Adjutant General Designee)
- (c) United Way Campaign
- (d) Boy Scouts of America
 - Chairman, Richland County Major Gifts – 2008
 - Chairman, Richland County Leadership – 2007
- (e) South Carolina Air National Guard
 - Air Force Distinguished Service Medal
 - Legion of Merit Medal
 - Meritorious Service Medal (with one oak leaf cluster)

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Commendation Medal for service in South Carolina,
Operation Desert Storm
Global War on Terrorism Service Medal

- (f) Graduate of USAF Air War College
- (g) Graduate of USAF Air Command and Staff College
- (h) Spring Valley Homeowners Association Board of Directors
President (1995–1998)
- (i) Shandon Presbyterian Church, Columbia, S.C.
Deacon
Trustee - Chairman of the Board of Trustees (2015–2016)

Mr. Patterson further reported:

I have a strong desire to serve on the bench. I believe my training and experience will be assets to the position. I believe in our system of justice and I will zealously seek the proper and just resolution of matters in dispute through appropriate application of the law. I feel that I can make a contribution to the cause of justice and the fair and orderly administration of the law in this state.

- 11. Commission Members' Comments:
The Commission noted that Mr. Patterson is a very experienced practitioner, and recognized his intellect and commitment to public service.
- 12. Conclusion:
The Commission found Mr. Patterson qualified, and nominated him for election to Administrative Law Court, Seat 2.

Debra Sherman Tedeschi
Administrative Law Court, Seat 2

Commission's Findings: QUALIFIED AND NOMINATED

- (1) Constitutional Qualifications:
Based on the Commission's investigation, Ms. Tedeschi meets the qualifications prescribed by law for judicial service as an Administrative Law Court judge.

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Ms. Tedeschi was born in 1967. She is 49 years old and a resident of Columbia, South Carolina. Ms. Tedeschi 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 1998. She was also admitted to the Pennsylvania Bar in 1997.

(2) Ethical Fitness:

The Commission's investigation did not reveal any evidence of unethical conduct by Ms. Tedeschi.

Ms. Tedeschi 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. Tedeschi reported that she has spent approximately \$159.00 for postage and stationery supplies.

Ms. Tedeschi 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. Tedeschi 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. Tedeschi to be intelligent and knowledgeable. Her performance on the Commission's practice and procedure questions met expectations.

Ms. Tedeschi described her continuing legal or judicial education during the past five years as follows:

<u>Conference/CLE Name</u>	<u>Date(s)</u>
(a) SCWLA: Troubling Statistics	06/2/2011
(b) SCWLA: The USC Law School Nonprofit	09/01/2011

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- (c) SC Bar: Annual Solo-Small Firm Seminar 09/23/2011
- (d) SCWLA: Women Lawyers and Leadership 10/21/2011
- (e) Sowell Gray: Mediation and Arbitration: Three Perspectives 01/11/2012
- (f) SC Bar: Annual Bar Convention 01/20-21/2012
- (g) SCWLA: Autism and the Law 04/05/2012
- (h) SCAG: Investigating & Prosecuting 07/27/2012
- (i) SCAARLA: Powerful Witness Preparation 11/09/2012
- (j) SCWLA: 2012 Ethics and Discipline Update 01/11/2013
- (k) Sowell Gray: Keep Calm & Appeal On-Appellate Practice in SC 01/16/2013
- (l) SC Bar: Annual Bar Convention 01/25/2013
- (m) SCAG: Selected Criminal Procedure issues and Affordable Housing 10/18/2013
- (n) SCAC: Local Government Attorneys Institute 11/22/2013
- (o) SCAG: Agencies Working with the AG's Office 01/17/2014
- (p) SCAG: Election Law 02/21/2014
- (q) NAUIAP: Annual UI Appeals Training Conference 06/22-26/2014
- (r) SCWLA: U.S. Supreme Court Update 07/10/2014
- (s) SCAG: Workplace Issues and Privacy Seminar 09/19/2014
- (t) SCWLA: Understanding the Rules Governing Social Security 10/02/2014
- (u) SCAARLA: Internet for Lawyers-The Cybersleuth's Guide 01/16/2015
- (v) SCAG: Art of Handling an Arbitration Case 06/26/2015
- (w) SCWLA: Highlights of the Current Term of the US Supreme Court 07/09/2015
- (x) SCAG: "Do the DEW" 08/21/2015
- (y) SCAC: SC Local Government Attorneys Institute 11/20/2015
- (z) SCSC: National Organization of Bar Counsel Webinar 01/14/2016
- (aa) SC Bar: SC Lawyer's Guide to Appellate Practice 02/16/2016
- (bb) SCWLA: Pathway to Judgeship in SC 06/09/2016

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(cc) SCWLA: US Supreme Court Update 2015-16
Term 07/14/2016

Ms. Tedeschi reported that she has taught the following law-related courses:

- (a) I lectured about administrative appeals in June 2016 at a summer course on Administrative Law at the University of South Carolina School of Law.
- (b) I organized and presented at a CLE sponsored by the South Carolina Attorney General's Office entitled "Do the DEW" in August 2015. The CLE covered an overview of the Department of Employment and Workforce (DEW) and information about Unemployment Insurance Claims and Appeals.
- (c) I lectured on the topic of Unemployment Insurance and Drug Testing at the annual conference for the National Association of Unemployment Insurance Appeals Professionals (NAUIAP) in June 2014.
- (d) I lectured on the prosecution of Internet Crimes Against Children (ICAC) at the South Carolina Solicitors' Association annual Conference in September 2004.
- (e) I taught Legal Writing to first year law students as an Adjunct Professor at the University of South Carolina School of Law for the 1999-2000 and 2005-2006 school years.

Ms. Tedeschi reported that she has published the following:

Identity Theft: A Primer, 19 S.C. Lawyer 20 (March 2008)

The Predicament of the Transsexual Prisoner, 5 Temp. Pol. & Civ. Rts. L. Rev. 27 (1995)

Comment, *Federal Rule of Evidence 413: Redistributing "The Credibility Quotient,"* 57 U. Pitt. L. Rev. 107 (1995)

(4) Character:

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

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The Commission also noted that Ms. Tedeschi 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. Tedeschi reported that she is not rated by any legal rating organization.
- (6) Physical Health:
Ms. Tedeschi appears to be physically capable of performing the duties of the office she seeks.
- (7) Mental Stability:
Ms. Tedeschi appears to be mentally capable of performing the duties of the office she seeks.
- (8) Experience:
Ms. Tedeschi was admitted to the South Carolina Bar in 1998.

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

Litigation Associate in Private Sector, 1996-1998

- (a) Upon my graduation from the University of Pittsburgh School of Law in 1996, I joined Pittsburgh's largest law firm, Kirkpatrick & Lockhart, as a litigation associate. This large, international law firm is now known as K&L Gates. While an associate, I assisted in several commercial litigation matters, including cases involving employment law, intellectual property, and insurance coverage issues.
- (b) In 1997, my husband accepted a job as a Physics Professor at the University of South Carolina, and we moved from Pittsburgh, Pennsylvania to Columbia, South Carolina. I became a litigation associate with Nelson Mullins Riley & Scarborough. From 1997-1998, I assisted in several commercial litigation matters, with a focus on product liability litigation.

Staff Attorney/Judicial Law Clerk at South Carolina Supreme Court, 1998-2004

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- (c) I joined the South Carolina Supreme Court's Staff Attorney office in 1998 and served as a staff attorney for two years. My responsibilities included researching a wide variety of legal issues related to direct criminal appeals, petitions for writs of certiorari, and appellate motions. I drafted memoranda, opinions, and orders for the Court's review.
- (d) In 2000, I began my service as a judicial law clerk for Associate Justice John H. ("Johnny") Waller, Jr. I analyzed issues in all areas of law for cases on appeal and in original jurisdiction matters. The cases included matters of civil, criminal, domestic, and administrative law. I reviewed the records on appeal and the advocates' legal briefs, performed additional research, and then drafted bench memoranda for Justice Waller with recommendations on the legal issues. These memoranda were distributed to the other Court Justices for their review. In addition, I attended oral arguments, and drafted majority, concurring, and dissenting opinions for Justice Waller's review.

Dedicated Prosecutor for Internet Crimes Against Children Task Force, 2004-2005

- (e) In 2004, I was hired by South Carolina Attorney General Henry McMaster to be South Carolina's first dedicated prosecutor of Internet Crimes Against Children (ICAC). In this role, I developed procedures to assist South Carolina law enforcement officers and prosecutors with effectively investigating and prosecuting ICAC matters. As a member of the Attorney General's Prosecution and State Grand Jury divisions, I prosecuted both child pornography and internet criminal solicitation cases. I provided specialized legal advice to SLED at the Computer Crime Center, trained law enforcement, and did public speaking as part of the community outreach function of the ICAC Task Force.

Adjunct Legal Writing Instructor, 2005-2006 (and also part-time 1999-2000)

- (f) I taught first-year law students at the University of South Carolina's School of Law legal writing and reasoning skills. The course topics included teaching students how to: (1) analyze and brief legal cases; (2) draft objective

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memoranda and persuasive briefs; and (3) effectively present an oral argument in court.

Judicial Law Clerk at South Carolina Supreme Court, 2006-2009

- (g) I returned to Justice Waller's chambers and worked again as a judicial law clerk until Justice Waller's retirement at the end of 2009. For duties, see subsection (d) above.

Solo Practitioner, 2010-2012

- (h) At the beginning of 2010, I began my own law firm, The Tedeschi Law Firm, P.A. I focused my practice on Appellate Law, Administrative Law, Veterans' Disability Law, and Civil Litigation.

Office of General Counsel at the S.C. Dept. of Employment & Workforce, 2011-present

- (i) At the end of 2011, I returned to the public sector/State employment when I was hired as Assistant General Counsel for the South Carolina Department of Employment and Workforce (DEW). I was promoted to Deputy General Counsel in 2012, and in 2015, I was given supervisory/management duties. As an attorney with DEW's Office of General Counsel (OGC), I handle an appellate case load before the Administrative Law Court, which involves defending DEW's final agency decisions when they are appealed. These cases on occasion get further appealed to the Court of Appeals and Supreme Court. For these appellate cases, I draft briefs, motions, petitions for certiorari (or returns to petitions), and deliver oral arguments on behalf of DEW. Additionally, as Deputy General Counsel, I provide a wide variety of legal advice to the executive leadership team and other internal DEW clients on different matters including: state and federal regulatory/statutory compliance; information technology contracts and related issues, to include contract negotiation and management; legislation; and data privacy/confidentiality issues.

Ms. Tedeschi further reported regarding her experience with the Administrative Law Court practice area:

For the past several years as Deputy General Counsel for DEW, I have appeared frequently and consistently before all the current

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judges of the Administrative Law Court (ALC). These cases are appellate review of final DEW unemployment insurance (UI) decisions, which are primarily related to UI benefits, but may also involve a business litigating an appeal on UI tax issues. Both factual and legal issues are argued, and the substantial evidence standard of review is an important part of almost every appeal. Additionally, on behalf of DEW, I have litigated a Setoff Debt Act contested case and appeared for a public hearing on a DEW regulation that was being amended. As a result, I have become intimately familiar with the ALC Rules, which are also the frequent subject of motions filed in these cases. Also, when I was in solo practice, I litigated an appeal before Judge McLeod involving a social worker's license which was regulated by the South Carolina Department of Labor, Licensing, and Regulation.

Ms. Tedeschi reported the frequency of her court appearances during the past five years as follows:

- (a) Federal: During my solo practice, I appeared sporadically in federal court through appellate court filings when I handled Veterans' Disability claims (2011);
- (b) State: During the past 5 years, I have occasionally appeared in person representing DEW for oral arguments before the South Carolina Administrative Law Court, Court of Appeals, and Supreme Court. However, I frequently appear in those same courts through written filings related to DEW appeals, most often (at least monthly) in the Administrative Law Court. I have also appeared before the Administrative Law court in a contested case matter and a regulatory hearing.

Ms. Tedeschi reported the percentage of her practice involving civil, criminal, and domestic matters during the past five years as follows:

- (a) Civil: 97% (including administrative law);

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- (b) Criminal: 2% (I hold a designation from the South Carolina Attorney General as a Special Assistant Attorney General for the purpose of assisting with Unemployment Insurance fraud criminal prosecutions);
- (c) Domestic: 1%;
- (d) Other: 0%.

Ms. Tedeschi reported the percentage of her practice in trial court during the past five years as follows:

- (a) Jury: 0%;
- (b) Non-jury: 100%.

Ms. Tedeschi provided that she most often served as sole counsel or co-counsel.

The following is Ms. Tedeschi's account of her five most significant litigated matters:

- (a) Jackson v Sanford, 398 S.C. 580, 731 S.E.2d 722 (2011).

In this appeal, I (along with James E. Smith, Jr.) represented Petitioner Darrick Jackson, Mayor of the Town of Timmonsville. This was a declaratory judgment action brought in the South Carolina Supreme Court's original jurisdiction to determine whether Governor Mark Sanford's veto of certain appropriations was unconstitutional. The Court held in favor of Mayor Jackson, finding that a Governor's line-item veto power allows a governor to veto "'items," which comprise both the designated funds and the object and purposes for which the appropriation is intended.' Therefore, where the Governor had vetoed only the funds-related part of an item, that veto was held unconstitutional. This matter is significant to me because it involved an issue of major public importance -- the interpretation of a constitutional power of the executive branch. It also was the first time I argued a case in front of the South Carolina Supreme Court -- I presented the Reply portion of Petitioner's argument.

- (b) Rest Assured, LLC v. S.C. Dep't of Emp. & Workforce, Mem. Op. No. 2015-MO-072 (S.C. Sup. Ct. filed Dec. 9, 2015).

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In this unemployment insurance (UI) tax liability matter, the issue was whether Rest Assured's home health care assistants were misclassified as independent contractors by the business. At the agency level, DEW held the workers to be employees, and therefore, their wages were subject to UI tax contributions. This matter is significant to me because it was one of my first assignments when I began working at DEW. I litigated many procedural aspects of this case in the circuit court, ALC and the Court of Appeals. Then, the substantive matters were heard by the ALC, which upheld DEW's decision. The business appealed, and the Court of Appeals reversed in an unpublished decision. I drafted the petition for writ of certiorari, which was promptly granted by the Supreme Court, and subsequently briefed and argued the case to the Supreme Court, where DEW's decision prevailed.

- (c) AnMed Health v. S.C. Dep't of Emp't. & Workforce, 404 S.C. 224, 743 S.E.2d 854 (Ct. App. 2013).

In this case, a hospital discharged a human resources employee for failing to get a flu shot under the hospital's mandatory flu shot policy. When the employee applied for unemployment insurance (UI) benefits, DEW found her eligible for benefits. The hospital appealed to the ALC which affirmed DEW's decision. The hospital then appealed to the Court of Appeals. The Court of Appeals found that the hospital's policy was reasonable, but also found that the substantial evidence supported DEW's decision holding the UI claimant was eligible for benefits. This decision is significant for UI law because it establishes that even while an employer may properly discharge an employee pursuant to its reasonable health and safety policy, the employee may nevertheless be entitled to UI benefits if the employee's reason for non-compliance with the policy was reasonable under the circumstances. This is significant decision for me personally because it was one of the first times I argued to the Court of Appeals.

- (d) Nucor Corp. v. S.C. Dep't of Emp't. & Workforce, 410 S.C. 507, 765 S.E.2d 558 (2014).

This case is significant because it reinforces the important principle of administrative law that when an appellate

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court is reviewing an agency's final decision under the substantial evidence rule, the appellate court is constrained to affirm when reasonable minds could reach the same result -- even if the appellate court itself would have come to a different decision as factfinder.

- (e) Yonemura v. Tom Sawyer Prods., Inc., Case Number: 2010-CP-40- 01188.

This case is significant to me because the plaintiffs, two young women, were my very first clients when I hung a shingle in 2010. It is also significant because it became my first (and only) jury trial. My clients ultimately did not prevail at trial, but they were pleased with my representation because they truly felt they had their day in court.

The following is Ms. Tedeschi's account of three civil appeals she has personally handled:

- (a) Hollins v. Wal-Mart Stores, Inc., Op. No. 26937 (S.C. Sup. Ct. filed March 7, 2011).
(b) Budreau v. Budreau, Op. No. 2012-UP-516 (S.C. Ct. App. Filed Sept. 12, 2012).
(c) Lippincott v. S.C. Dep't of Emp't. & Workforce, Op. No. 2013-UP-056 (S.C. Ct. App. filed Jan. 30, 2013).

Ms. Tedeschi reported that she has not personally handled any criminal appeals.

- (9) Judicial Temperament:

The Commission believes that Ms. Tedeschi's temperament would be excellent.

- (10) Miscellaneous:

The Midlands Citizens Committee on Judicial Qualifications found Mrs. Tedeschi to be "Well Qualified" in the evaluative criteria of ethical fitness, professional and academic ability, character, reputation, experience, and judicial temperament, and "Qualified" in the remaining evaluative criteria of constitutional qualifications, physical health, and mental stability.

Ms. Tedeschi is married to David John Tedeschi. She has two children.

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Ms. Tedeschi reported that she was a member of the following Bar associations and professional associations:

- (a) South Carolina Bar Association
Served on the S.C. Bar's Professional Potential Task Force (2008-2011)
- (b) South Carolina Women's Law Association
- (c) National Association for Unemployment Insurance Appeals Professionals (NAUIAP)

Ms. Tedeschi provided that she was a member of the following civic, charitable, educational, social, or fraternal organizations:

- (a) Tree of Life Congregation, Member; also on Board of Directors (July 2016 - present, and 2002-2013)
- (b) Fast Forward, Board of Directors (2010-2013)

Ms. Tedeschi further reported:

My parents grew up in Brooklyn, New York, and I myself was born and raised in New Jersey. My dad never went to college; my mom went to community college to become a teacher after my two older brothers and I were all enrolled in school. I never imagined that someday I would move to South Carolina and plant my family roots here. I certainly never entertained the thought that I would become a South Carolina lawyer who would someday apply to become a judge. But, in 1992, after living and working for several years in New York City as a computer professional, I decided I wanted to change my life. I set my sights on going to law school, with the long-term goal of serving the public in some manner. That was the first step in a journey that led me to living in, and serving, the great state of South Carolina.

In 1993, I moved to Pittsburgh, Pennsylvania, and began law school. I thoroughly enjoyed law school. This is not always an easy thing to do given the rigor and competition inherent in the law school experience. However, I thrived in the environment and succeeded academically. Meanwhile, on a personal level, my boyfriend (who coincidentally also grew up in New Jersey) became my fiancé and then my husband during

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those three years of law school. After graduation, I began practicing as a lawyer in the private sector at the largest Pittsburgh law firm. During my first year of practicing law, my husband was offered a job as an Assistant Professor in the Physics Department at the University of South Carolina. I was so happy and proud that he was fulfilling his career aspirations, (I got a great job with Nelson Mullins), and we set our sights on Columbia, South Carolina.”

One of the first things I learned about Columbia is how General Sherman burned it down on February 17, 1865. Well, with a middle/maiden name of Sherman, I started to wonder how I would fit in when we made the move. A wonderful thing happened though -- my husband and I embraced South Carolina and South Carolina embraced us. Within a year of moving to Columbia, I was working for the South Carolina Supreme Court, and I had attained my goal of practicing law and serving the public in some fashion.

Over the years, I learned to really live the state motto of ‘Dum spiro spero.’ South Carolina taught this Jersey girl to slow down a little bit and generally just be more optimistic about life. My law career has predominantly been focused on trying to use my law license to do good work. After having the honor and privilege of serving the S.C. Supreme Court for about six years, I left and began working as a dedicated prosecutor for the Attorney General's Office in the area of Internet Crimes Against Children (ICAC). The Attorney General at the time, Henry McMaster, wanted to tackle this tough issue and make quick and steady progress. I wanted to combine my background in computer science with being a lawyer. The idea that I would be fighting for children also appealed to me given that I was now a mother of two young boys. Even though my work at the AG's office was over ten years ago, I am extremely proud of the abundance of good work that we got done in my relatively brief tenure as the first dedicated ICAC prosecutor.

From there my legal career took some more turns, all good ones. I taught legal writing, returned to

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the Supreme Court to again clerk for Justice Waller, and then after Justice Waller retired, I opened my own law firm. This certainly was another step in my journey that I had not envisioned even a couple of years earlier. Being a solo practitioner taught me so much about how wonderful the members of the South Carolina Bar are - - collaborative, professional and helpful. I became a better attorney, a more resourceful and confident lawyer. I was able to help our veterans get the disability benefits they deserved, and also continued developing as an appellate advocate. Yet I missed serving the State of South Carolina, and at the end of 2011, I happily returned to state employment with the South Carolina Department of Employment and Workforce (DEW). This new cabinet agency, statutorily created in 2010, had formerly been the Employment Security Commission. My new job required a variety of legal skills -- appellate work, some criminal prosecution, and a variety of "general counsel" on other issues, many involving computer technology. All the steps of my legal career started to make sense to me, and I threw myself into working for DEW.

Now, after almost five years of service to DEW working primarily in the area of Administrative Law, I find myself seeking a new way to publicly serve. It would be an honor and a privilege to be able to work as a South Carolina Administrative Law Judge. Having worked with many of this State's best judges for a good portion of my legal career, I am aware that being a judge is no easy task. However, I believe this is the next logical step in my hopeful journey to use my legal acumen for good.

- (11) Commission Members' Comments:
The Commission commented that Ms. Tedeschi is smart and has a great depth of understanding of, and experience in, the Administrative Law Court.
- (12) Conclusion:
The Commission found Ms. Tedeschi qualified and nominated her for election to Administrative Law Court, Seat 2.

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QUALIFIED, BUT NOT NOMINATED

**The Honorable Ralph King (Tripp) Anderson III
Supreme Court, Seat 5**

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

The Commission found Judge Anderson qualified and nominated on November 15, 2016. On November 30, 2016, upon a motion that noted his attendance at a political gathering and noted Canons 2 and 5 of the Code of Judicial Conduct, the majority of the Commission voted to reconsider the vote on his nomination for the Supreme Court, Seat 5. On November 30, 2016, the Commission voted unanimously to carry over the vote on the third nomination for the Supreme Court, Seat 5. On December 5, 2016, the Commission reconvened and the majority voted to nominate Judge R. Keith Kelly.

(1) Constitutional Qualifications:

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

Judge Anderson was born in 1959. He is 57 years old and a resident of Columbia, South Carolina. Judge Anderson 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 1984.

(2) Ethical Fitness:

The Commission's investigation did not reveal evidence of disqualifying unethical conduct by Judge Anderson. Judge Anderson demonstrated an understanding of ethical considerations important to judges in the areas of ex parte communications, acceptance of gifts and ordinary hospitality, and recusal.

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

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Judge Anderson 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 Anderson 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 Anderson to be intelligent and knowledgeable. His performance on the Commission's practice and procedure questions met expectations.

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

Conference/CLE Name Date(s)

- (a) Military Justice and the Special Victim Counsel June 17, 2016
- (b) EDVentures in Administrative Law February 19, 2016
- (c) Ethics and Mental Health December 11, 2015
- (d) Protecting Customers in South Carolina September 18, 2015
- (e) "Do the DEW" August 21, 2015
- (f) The Fundamentals of Persuasion in Written Advocacy July 17, 2015
- (g) The Art of Handling an Arbitration Case June 26, 2015
- (h) Workplace Issues & Privacy September 19, 2014
- (i) Natural Resources & Environmental Law August 22, 2014
- (j) Ethics: The Law and News June 20, 2014
- (k) Advanced Legal Research with WestLawNext June 9, 2014

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- (l) What's Next on WestLawNext for Government Attorneys May 29, 2014
- (m) Administrative Law Update January 10, 2014
- (n) Ethics/Mental Health December 6, 2013
- (o) Selected Criminal Procedure Issues and Affordable Housing October 18, 2013
- (p) South Carolina Law Review 2013 Symposium March 1, 2013
- (q) Case Law Update: Latest and Greatest August 16, 2013
- (r) SC Bar Convention (Admin. & Reg. Seminar) January 25, 2013
- (s) Witness Preparation (SCAARLA) November 9, 2012
- (t) Post Conviction Proceedings: Sexually Violent Predator and Victims Rights September 28, 2012
- (u) Identity Theft Protection August 24, 2012
- (v) Investigating and Prosecuting Internet Crimes Against Children July 27, 2012
- (w) Medicaid Fraud January 20, 2012
- (x) 2011 Ethics Seminar (SCAARLA) October 7, 2011
- (y) The Legislature and Law September 16, 2011
- (z) Internet for Lawyers (SCAARLA) August 19, 2011

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

- (a) I spoke at a Fifth Circuit's Spring Courthouse Keys event on April 1, 2016;
- (b) I lectured at a seminar at the SC Bar Convention for the Regulatory and Administrative Law Section on January 22, 2016;
- (c) I lectured at a seminar for SC Bar CLE "Fifth Circuit Tips from the Bench" on January 8, 2016;
- (d) I lectured to a class at the USC School of Law (Law Practice Workshop) on February 9, 2015;

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- (e) I lectured at a seminar for SC HHS Hearing Officers on 4/13/2015;
- (f) I lectured at Administrative Law & Practice in S.C. Seminar on 1/31/2014;
- (g) I lectured to a class at the USC School of Law (Law Practice Workshop) on March 3, 2014
- (h) I participated in a panel discussion at the S.C. Bar Convention on January 25, 2013;
- (i) I lectured at a Public Service Commission. CLE on March 20, 2013;
- (j) I lectured at two separate CLEs on Administrative Law on February 21 & 22, 2013;
- (k) I spoke at a S.C. Bar CLE involving Hot Topics in Administrative Law on October 30, 2009;
- (l) I participated in a panel discussion in a Judicial Merit Selection Commission CLE on July 31, 2009.

Judge Anderson reported that he has published the following:

- (a) "A Survey on Attributes Considered Important for Presidential Candidates," Carolina Undergraduate Sociology Symposium, April 17, 1980.
- (b) "An Overview of Practice and Procedure Before the Administrative Law Judge Division," South Carolina Trial Lawyer, Summer 1996.

(4) Character:

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

The Commission also noted that Judge Anderson 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 Anderson reported that his last available rating by a legal rating organization, Martindale-Hubbell, was AV Preeminent.

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

Appointed and served as an Assistant Attorney General 1985 to January, 1995.

- (6) Physical Health:
Judge Anderson appears to be physically capable of performing the duties of the office he seeks.
- (7) Mental Stability:
Judge Anderson appears to be mentally capable of performing the duties of the office he seeks.
- (8) Experience:
Judge Anderson was admitted to the South Carolina Bar in 1984.

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

I began my legal career at the South Carolina Attorney General's Office. During my career at the AG's office I prosecuted numerous criminal cases of all types and handled a wide variety of civil litigation. My duties included:

- (a) Statewide criminal prosecutor
- (b) Assisted in the implementation of the Statewide Grand

Jury

- (c) Extradition hearing officer on behalf of the Governor of South Carolina

- (d) Counsel to the State Ethics Commission
- (e) Represented the State in a variety of civil litigation matters
- (f) Represented the State in post-conviction relief matters
- (g) Committee Attorney for the State Employee Grievance

Committee

- (h) Prosecutor for the Engineering and Land Surveyor's Board
I also prosecuted Medical Board cases, wrote Attorney General Opinions and handled Criminal Appeals.

On May 25, 1994, I was elected to Administrative Law Judge Seat No. 6 and re-elected to that position in 1996, 2001 and 2006. Administrative Law Judges hear appellate, injunctive and trial cases in a broad range of administrative matters involving governmental agencies and private parties.

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On May 13, 2009, I was elected Chief Administrative Law Judge and re-elected to this position February 5, 2014.

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

- (a) Federal: Infrequently;
- (b) State: At least 100 times during a five-year period;
- (c) Other: N/A.

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

- (a) Civil: 70%;
- (b) Criminal: 30%;
- (c) Domestic: 0%;
- (d) Other: 0%.

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

- (a) Jury: 30%;
- (b) Non-jury: 75%.

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

The following is Judge Anderson's account of his five most significant litigated matters:

- (a) State v. Dwight L. Bennett - This was a felony DUI case in which the victim lost the baby she was carrying and suffered horrible injuries. Although the defendant was convicted, this case was used as a legislative example as the need to increase the maximum felony DUI punishment.
- (b) Georgia v. Richard Daniel Starrett, aff'd., Richard Daniel Starrett v. William C. Wallace, - Starrett was convicted of several crimes in South Carolina. Afterwards, Georgia sought his extradition in an attempt to convict him under the death penalty. Starrett's challenge to the Attorney General's Office authority to hold extradition hearings was denied.

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- (c) State v. Michael Goings - Goings was a notorious City of Cayce police officer charged with assault and battery of a high and aggravated nature.
- (d) State v. Herbert Pearson and Terrance Singleton - The Defendants in this case were accomplices in the armed robbery, attempted murder and murder of attendants at a gas station in Sumter, S.C.
- (e) State v. William Keith Victor - After the Defendant was convicted of murder and kidnapping, he was given the death penalty. His case was later reversed on appeal and I assumed the prosecution. The prosecution, under difficult circumstances, resulted in the Defendant's plea to murder, and the aggravating circumstance of kidnapping.

The following is Judge Anderson's account of five civil appeals he has personally handled:

- (a) Bergin Moses Mosteller v. James R. Metts, S.C. Supreme Court, Not known when this case was decided.
- (b) Dennis G. Mitchell v. State of S.C., S.C. Supreme Court, Not known when this case was decided.
- (c) Ex Parte, Bobby M. Stichert v. Carroll Heath, S.C. Supreme Court, Decided August 29, 1985 (286 S.C. 456, 334 S.E. 2d 282).
- (d) Patrick C. Lynn, et al. State of S.C., Supreme Court, Not known when this case was decided.
- (e) Paul David Tasker v. M.L. Brown, Jr., S.C. Supreme Court, Not known when this case was decided.

The following is Judge Anderson's account of criminal appeals he has personally handled:

I handled several criminal appeals while serving as an Assistant Attorney General. However, my service with the Attorney General's Office ended in February 1995, when I began serving as an Administrative Law Judge. As a result of the passage of time since that date, the briefs and specific case captions are no longer available.

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

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I was elected by the General Assembly to serve as an Administrative Law Judge beginning February 1, 1995 and have been serving continuously since that date.

Administrative Law Judges hear appellate, injunctive, and trial cases in a broad range of administrative matters involving governmental agencies and private parties.

The Administrative Law Court's appellate jurisdiction includes appeals involving Medicaid; driver's license revocations and suspensions; licensing decisions from boards/commissions under the Department of Labor, Licensing and Regulation; Budget and Control Board's Employee Insurance Program; AFDC benefits; operation of day care facilities and foster home licensing; food stamps; and revocations or suspensions of teachers' certificates. The Administrative Law Court also hears appeals from final decisions of the Department of Employment and Workforce; the Department of Corrections in "non-collateral" matters; and appeals from final decisions of the South Carolina Department of Probation, Parole and Pardon Services permanently denying parole eligibility.

The contested case litigation includes hearings involving environmental and health permitting; Certificates of Need; State Retirement Systems' disability determinations; Disadvantaged Business Enterprises; state and county tax matters; alcoholic beverage issues; and wage disputes.

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

- (a) McNeil v. S.C. Dep't of Corrs., 00-ALJ-04-00336-AP (September 5, 2001) (en banc). Holding reviewed in Sullivan v. S. Carolina Dep't of Corr., 355 S.C. 437, 586 S.E.2d 124 (2003).
- (b) Providence Hosp. v. S.C. Dep't of Health and Envtl. Control and Palmetto Richland Memorial Hosp., Docket No. 02-ALJ-07-0155-CC.
- (c) Travelscape, LLC v. S.C. Dep't of Revenue, Docket No. 08-ALJ-17-0076-CC. Holding affirmed in Travelscape, LLC v. S. C. Dept. of Revenue, 391 S.C. 89, 705 S.E.2d 28 (2011).
- (d) Duke Energy Corp. v. S. C. Dep't of Revenue, Docket No. 10-ALJ-17-0270-CC. Holding affirmed in Duke

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Energy Corp. v. S.C. Dep't of Revenue 410 S.C. 415, 417, 764 S.E.2d 712, 713 (Ct. App. 2014), reh'g denied (Nov. 21, 2014), cert. granted (Apr. 9, 2015) and further affirmed by the Supreme Court in Duke Energy Corp. v. S. C. Dep't of Revenue, 415 S.C. 351, 782 S.E. 2d 590 (2016).

- (e) Kiawah Dev. Partners, II v. S.C. Dep't of Health and Env'tl. Control, Docket No. 09-ALJ-07-0029-CC and S.C. Coastal Conservation League v. S.C. Dept. of Health and Env'tl. Control, Docket No. 09-ALJ-07-0039-CC (February 26, 2010) (consolidated cases). Holding originally reversed by the Supreme Court, then affirmed and then reversed 3-2 in Kiawah Dev. Partners, II v. S.C. Dep't of Health & Env'tl. Control, 411 S.C. 16, 766 S.E.2d 707 (2014).

Judge Anderson further reported the following regarding unsuccessful candidacies:

Administrative Law Judge, Seat 3 (February 23, 1994)

Fifth Judicial Circuit Court, Seat 3 (May 24, 2000) - Found qualified and nominated but withdrew prior to election.

Circuit Court, At-Large Seat 9 (January 16, 2003) - Found qualified but not nominated.

Court of Appeals, Seat 9 (March 10, 2008) - Found qualified but not nominated.

Supreme Court, Seat 2 (January 14, 2016) - Found qualified and nominated but withdrew prior to election.

- (9) Judicial Temperament:

The Commission believes that Judge Anderson's temperament has been, and would continue to be, excellent.

- (10) Miscellaneous:

The Midlands Citizens Committee on Judicial Qualifications found Judge Anderson to be "Well Qualified" in the evaluative criteria of ethical fitness, professional and academic ability, character, reputation, experience, and judicial temperament, and "Qualified" in the remaining evaluative criteria of constitutional qualifications, physical health, and mental stability.

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Judge Anderson is married to Linda Corley Anderson. He does not have any children.

Judge Anderson reported that he was a member of the following Bar associations and professional associations:

- (a) South Carolina Bar
- (b) Administration and Regulatory Law Committee of the SC Bar
- (c) South Carolina Administrative and Regulatory Law Association; President since 2009.

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

- (a) Shandon Baptist Church.

Judge Anderson further reported:

I was one of the original six judges elected, when the Administrative Law Court was implemented. During my tenure on the Court, I have worked arduously to fulfill my judicial duties. In particular, I have sought to issue well-reasoned orders which reflect a commitment to following sound legal principles of our State's laws.

Additionally, I believe that my unique life experiences have helped prepare me for this task. I have a father who earnestly sought to do his job far better than asked. A father who seeks to be thoroughly versed in the law, yet open to learn from anyone. And, more importantly, a judge who lives his life in keeping with the ethical standards expected of a judge. My mother lived through extraordinary sufferings, yet continued to lovingly do for others. And finally, living with paralysis has taught me that life is not easy or necessarily fair from our worldly perspective. Yet, the lesson for me is that within the parameters of the law, I must earnestly seek to render justice to those before me.

(11) Commission Members' Comments:

The Commission appreciates Judge Anderson's exemplary service on the Administrative Law Court. They also noted his valuable experience in the Attorney General's Office.

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- (12) Conclusion:
The Commission found Judge Anderson qualified, but not nominated for election to Supreme Court, Seat 5.

**The Honorable Carmen Tevis Mullen
Supreme Court, Seat 5**

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

- (1) Constitutional Qualifications:
Based on the Commission's investigation, Judge Mullen meets the qualifications prescribed by law for judicial service as a Supreme Court Justice.

Judge Mullen was born in 1968. She is 48 years old and a resident of Hilton Head Island, South Carolina. Judge Mullen 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. She was also admitted to the Illinois Bar in 1996.

- (2) Ethical Fitness:
The Commission's investigation did not reveal any evidence of unethical conduct by Judge Mullen.

Judge Mullen 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 Mullen reported that she has made \$296.14 in campaign expenditures for postage and printing.

Judge Mullen 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;

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

Judge Mullen 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 Mullen to be intelligent and knowledgeable. Her performance on the Commission's practice and procedure questions met expectations.

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

- (a) 3/9/16 SCCJC – Spring Conference
- (b) 3/9/15 SCCJC - Circuit Court Judge's Conference
- (c) 8/20/15 SCCA – 2015 Annual Judicial Conference
- (d) 1/23/15 SC Bar Association – Part 2: Criminal Law Section
- (e) 1/23/15 SC Bar Association – Trial and Appellate Advocacy Section
- (f) 10/10/14 SC Bar Association – SCWLA 2014 Conference
- (g) 9/21/14 SCCP - 2014 South Carolina Solicitors' Association Annual Conference
- (h) 8/20/14 SCCA - 2014 Annual Judicial Conference
- (i) 3/24/14 SCCJC - 2014 Circuit Court Judges Conference
- (j) 1/31/14 SCWLA - 2013 Ethics Update by Barbara Seymour
- (k) 1/24/14 SC Bar Association – Trial and Appellate Advocacy Section
- (l) 1/24/14 SC Bar Association – Construction Law Section
- (m) 1/24/14 SC Bar Association – Criminal Law Section – Part 2

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- (n) 1/25/13 SC Bar Association - Trial & Appellate Advocacy Section
- (o) 1/25/13 SC Bar Association - Part 2: Criminal Law Section
- (p) 4/25/13 SC Bar Association - Spring Sporting Clays
- (q) 5/1/13 SCCJC Spring Conference
- (r) 8/21/13 SCCA 2013 Annual Judicial Conference
- (s) 9/24/13 Hilton Head - How to Win in Circuit Court
- (t) 9/23/13 Myrtle Beach - Public Defenders' Conference
- (u) 1/20/12 SC Bar Association - Part 2 Criminal Law Section
- (v) 1/20/12 SC Bar Association - Trial & Appellate Advocacy Section
- (w) 4/12/12 SC Bar Association - Spring Sporting Clays
- (x) 5/2/12 SCCJC - Annual Circuit Court Judges' Conference
- (y) 8/22/12 SCCA - 2012 Annual Judicial Conference
- (z) 10/18/12 SC Bar Association - Spring Sporting Clays
- (aa) 1/20/11 SC Bar Association - Criminal Law Section
- (bb) 1/21/11 SC Bar Association - Trial & Appellate Advocacy Section
- (cc) 4/14/11 SC Bar Association - Sporting Clays CLE Ethics w/Judges
- (dd) 5/4/11 SCCJC - SC Circuit Court Judges' Conference
- (ee) 8/17/11 SCCA - 2011 Annual Judicial Conference
- (ff) 10/13/11 SC Bar Association - Sporting Clays CLE Ethics w/Judges
- (gg) 10/21/11 SCWLA - Women Lawyers and Leadership

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

- (a) Speaker, Solicitor's Association Fall Conference, September 2008
- (b) Presenter, "On Judging Judges," USC School of Law Class of 1995 Reunion, November 5, 2010
- (c) Speaker, SC Tort Law Update, November 12, 2010
- (d) Speaker, Practice Basics for the New Lawyer, Charleston School of Law Women in Law, April 13, 2011
- (e) Panel Member, "Sporting Clays: Ethics with the Judges," April 14, 2011
- (f) Speaker, Senior Leadership of Beaufort, Spring 2012
- (g) Panel Member, Public Defender's Conference, September 23, 2013
- (h) Speaker, "How to Win in Circuit Court," Hilton Head Bar Association CLE, September 27, 2013
- (i) Speaker, Summary Jury Trials, Hilton Head Bar Association CLE, November 22, 2013
- (j) Panel Member, Construction Law, South Carolina Bar Convention, January 24, 2014
- (k) Panel Member, Tips from the Trial Bench for Criminal Practitioners, 23rd Annual Criminal Practice in South Carolina Seminar, February 28, 2014
- (l) Panel Member, Solicitors Conference, "Significant Cases: 2013-2014", September 22, 2014
- (m) Speaker, USC Hilton Head, October 7, 2014
- (n) Panel Member, Charleston Chapter SCWLA, "So You Want to Run for Office", September 24, 2015
- (o) Panel Member, South Carolina Bar Association, "Fourteenth Circuit Tips from the Bench: What Your Judges Want You to Know", October 30, 2015

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

- (4) Character:
The Commission's investigation of Judge Mullen did not reveal evidence of any founded grievances or criminal allegations made against her. The Commission's investigation of Judge Mullen did not indicate any evidence of a troubled financial

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status. Judge Mullen has handled her financial affairs responsibly.

The Commission also noted that Judge Mullen 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 Mullen reported that her last available rating by a legal rating organization, Martindale Hubbell, was BV.
- (6) Physical Health:
Judge Mullen appears to be physically capable of performing the duties of the office she seeks.
- (7) Mental Stability:
Judge Mullen appears to be mentally capable of performing the duties of the office she seeks.
- (8) Experience:
Judge Mullen was admitted to the South Carolina Bar in 1995.

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

- 1. Law Clerk to Honorable L. Casey Manning, Circuit Court Judge for the Fifth Judicial Circuit, April 1995 - August 1996. Assisted Judge in all research, writing orders, scheduling, etc.
- 2. Charleston County Public Defender's Office, Assistant Public Defender, August 1996 - December 1997. Handled caseload of 250+ criminal defendants for misdemeanor and felony crimes including Murder, CSC 1st, Burglary 1st, and ABHAN.
- 3. South Carolina House of Representatives, Labor, Commerce & Industry Committee, Staff Attorney, December 1997 - October 1998. Duties included researching legal affect of pending bills before legislature and instructing Members on law and drafting some legislation when requested by Members.

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4. Uricchio, Howe, Krell, Jackson, Toporek & Theos, Associate, October 1998 - April 2000. Criminal and civil litigation practice in state and federal courts. Case types: Plaintiffs tort actions, contract disputes, criminal defense.
5. Berry, Tevis & Jordan, Partner, April 2000 - May 2001. Tort litigation including automobile accidents and some criminal defense.
6. Carmen M. Tevis, LLC, Solo Practitioner, May 2001 - June 2006. Tort litigation, construction litigation, contract litigation, fraud litigation, and criminal defense in state and federal courts.
7. Resident Circuit Court Judge, 14th Judicial Circuit - June 2006 - Present.

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

- (a) Federal: approximately 50 times;
- (b) State: approximately 200+ times.

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

- (a) Civil: 80%;
- (b) Criminal: 20%;
- (c) Domestic: 0%;
- (d) Other: 0%.

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

- (a) Jury: 10%;
- (b) Non-jury: 90%.

Judge Mullen provided that prior to her service on the bench she most often served as sole counsel.

The following is Judge Mullen's account of her five most significant litigated matters:

- (a) Manuel and Gloria Peralta v. Shamsy Madini and S. Ahmed Mandini, 2000-CP-07-1175, and Sunders, Inc. d/b/a ReMax Island Realty v. Shamsy Mandini and S.

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Ahmed Mandini, 2000-CP-07-907. These two cases derive out of a breach of contract regarding the sale of a million dollar home in Windmill Harbour, Hilton Head Island. One action was brought by the realtor and the other by a buyer in an effort to force Defendant to sell her home during a time Defendant was particularly vulnerable going through a divorce. I tried both of these cases to a jury and received defense verdicts for my clients.

- (b) Cambridge Building Corp. v. Dr. Joseph A. Borelli, 2002-CP-07-676. A breach of contract action I brought on behalf of a builder who was not paid by a homeowner. Significant in that the counterclaim by Defendant far exceeded the original claim. Case was tried to a jury and the builder received his money in full and no money was owed on the counterclaim.
- (c) “Hamlet Litigation”
Thomas W. Knode, et al v. Southeastern Construction Co. of Summerville, Inc., Systems of South Carolina, Inc., Dryvit, Inc., Rogers Roofing Company, Inc., Willis & Jennings, Edward D. Scott, Kinco Ltd., Southeastern Design and Development, Inc. and John G. Dumas. 2004-CP-08-422; 2004-CP-08-424; 2004-CP-08-657; 2004-CP-08-427; 2004-CP-08-356; 2004-CP-08-645; 2004-CP-08-647. I represented a group of homeowners consisting of seven families against multiple defendants for faulty workmanship and construction defects in the building of their homes. All homeowners are older and had purchased homes to retire in and could not afford the cost to repair absent settlement paid.
- (d) Robert and Janice Varner, et al v. South Carolina Federal Credit Union, Docket No. 2:04-0164-18; Docket No. 2:04-22323-18; Docket No. 2:04-22324-18; Docket No. 2:05-0716-18. Four federal court cases against the South Carolina Federal Credit Union wherein a Credit Union employee performed transactions and drafted bank checks and embezzled funds in an attempt to defraud an elderly couple and others out of their life savings. Causes of action: fraud, breach of express and implied contract/breach of contract, negligent misrepresentation, breach of

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fiduciary duty, negligence/gross negligence/willful misconduct, constructive fraud, violation of SC Unfair Trade Practices Act, theft, embezzlement or misappropriation by a bank officer or employee, conversion, civil conspiracy, violation of #12 U.S.C.A. § 17-51, et. seq., Federal Credit Union Act, and accompanying regulations and liable and slander. Complexity of issues and extreme difficulty in ascertaining loss, even by forensic experts, make these cases significant.

- (e) U.S. v. Dominique Green, 9:01-00691. Defended in federal court by appointment a multi-court indictment, including conspiracy and trafficking crack cocaine and other narcotics with multiple levels of defendants wherein my client was charged at being on the top of the drug chain.

The following is Judge Mullen's account of the civil appeal she has personally handled:

- (a) L-J, Inc., v. Bituminous Fire & Marine Insurance Company, 350 S.C. 549, 567 S.E. 2e 489 (Ct. App. 2002). L-J, Inc. v. Bituminous is an insurance coverage case. Wrote Amicus Brief for the rehearing before the South Carolina Supreme Court on behalf of South Carolina Trial Lawyers Association, September 26, 2005. Supreme Court reversed its' decision.

Judge Mullen reported that she has not personally handled any criminal appeals.

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

July 17, 2006 to present – SC Circuit Court. Elected.
General civil and criminal jurisdiction.

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

- (a) State of South Carolina v. Ernest Daise - Death Penalty Case tried to a jury in October, 2013.
Double homicide of mother and child and also shooting of Defendant's own 15 month old child. Significant for

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the heightened due process requirements of a death penalty case, significant pretrial publicity, multiple complex evidence issues, contested guilt stage, and lengthy explanation of juror bias issues.

- (b) Ex Parte James A. Brown, Jr., Attorney/Appellant. In Re: State of South Carolina, Respondent v. Alfonzo Howard, Defendant. 393 S.C. 214 (2011) Affirmed. Significant due to the gruesome nature of the underlying criminal case (kidnapping, rape, armed robbery) combined with a defense lawyer using the trial to make a public statement about compensation for appointed attorneys. Required maintaining the decorum of the court while protecting the victims' rights to conclude the trial (avoid a mistrial) and simultaneously protect Defendant's rights to a fair trial and competent defense, while maintaining the ability to sanction the defense lawyer for his courtroom antics.
- (c) Maureen T. Coffey v. Community Services Assoc., Inc., George F. Bread, Jr., Sea Pines Resort, LLC., Assoc. of Sea Pines Plantation Property Owners In., and the Advisory Board. Involved slander and libel of a sitting judge, a public official. Substantial jury award given.
- (d) Harbour Ridge Homeowners Association, Inc. v. North Harbour Development Corporation, Inc., et al. Horry County. Non-jury trial involving condominium project. Homeowner's Association suing Developer and General Contractor for negligent construction of 8 condominium buildings. Awarded \$1,908,354. Issues involved: statute of limitations and individual contractor liability. Significant as to the competing measure of damages and that all parties agreed to allow me to try it non-jury.
- (e) Willie Homer Stephens, Guardian ad Litem for Lillian Colvin, a minor, Appellant v. CSX Transportation, Inc., and South Carolina Department of Transportation, Respondents, Hampton County. 400 S.C. 503 Affirmed by the Court of Appeals. Car versus train wreck wherein a car collided with a train and a 12 year old passenger suffered traumatic brain injury. Significant in length of

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trial (3 weeks), extensive pre-trial matters, 60+ witnesses and a defense verdict in Hampton County!!

- (f) State of South Carolina v. George Stinney, Jr., Motion for a New Trial based on after discovered evidence and pursuant to the common law writ of *coram nobis* for a minor child given the death penalty in 1944. I vacated the Defendant's murder conviction based on multiple constitutional violations. Significant in the factual scenario of a fourteen year old boy arrested, tried and executed within 83 days of the crime, with virtually no assistance from his appointed attorney. The facts are shocking in today's environment, but even in 1944 grossly violated Defendant's due process rights. The media scrutiny enhanced the significance of this tragic case.

Judge Mullen has reported no other employment while serving as a judge.

Judge Mullen further reported the following regarding an unsuccessful candidacy:

Court of Appeals, Seat 7, Spring 2014.

- (9) Judicial Temperament:

The Commission believes that Judge Mullen's temperament has been, and would continue to be, excellent.

- (10) Miscellaneous:

The Lowcountry Citizens Committee on Judicial Qualifications found Judge Mullen to be "Well Qualified" in the evaluative criteria of ethical fitness, professional and academic ability, character, reputation, experience, and judicial temperament, and "Qualified" in the remaining evaluative criteria of constitutional qualifications, physical health, and mental stability. The Committee found that based on the evaluative criteria, Judge Mullen meets and exceeds the requirements in each area.

Judge Mullen is married to George Edward Mullen Sr. She has one child and three step children.

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

- (a) South Carolina Women Lawyers Association - Board Member 2012 - Present
- (b) National Association of Women Judges
- (c) American Bar Association
- (d) Beaufort County Bar Association
- (e) Hilton Head Bar Association
- (f) South Carolina Bar Association

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

- (a) Sea Pines Montessori, Board Member 2010 – June 2016; Board Chair - 2012-2013
- (b) Hilton Head High School Booster Club
- (c) Providence Presbyterian Church

Judge Mullen further reported:

My educational background and talent in writing will serve me well on the Supreme Court. If elected, I look forward to having more time to research and write as is required on the Supreme Court bench. My diverse legal experience as a trial lawyer handling both complex civil cases and felony criminal cases and having served on the Circuit Court bench for the last 10 years in a circuit that includes cosmopolitan and rural areas has taught me the patience and resilience necessary to be an outstanding Supreme Court Justice.

(11) Commission Members' Comments:

The Commission commented that Judge Mullen is an exceptional trial court judge with a great judicial demeanor. The Commission noted that she possesses a broad base of experience and knowledge.

(12) Conclusion:

The Commission found Judge Mullen qualified, but not nominated for election to Supreme Court, Seat 5.

**John Shannon Nichols
Supreme Court, Seat 5**

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

(1) Constitutional Qualifications:

Based on the Commission's investigation, Mr. Nichols meets the qualifications prescribed by law for judicial service to the South Carolina Supreme Court.

Mr. Nichols was born in 1958. He is 58 years old and a resident of Columbia, South Carolina. Mr. Nichols 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. Nichols.

Mr. Nichols 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. Nichols reported that he has spent:

- (a) \$1.40 on postage to mail the required Letter to the Commission on Lawyer Conduct with copies to the Supreme Court and the JMSC;
- (b) \$67.43 for paper, envelopes, and labels; and
- (c) \$67.68 for postage to send an introductory letter to members of the General Assembly.

Mr. Nichols 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.

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Mr. Nichols 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. Nichols to be intelligent and knowledgeable. His performance on the Commission's practice and procedure questions met expectations.

Mr. Nichols described his continuing legal or judicial education during the past five years as follows:

I receive six hours of MCLE credit each year for serving on the South Carolina Board of Law Examiners and two to four hours of MCLE credit each year for assisting with the South Carolina Supreme Court's lawyer mentoring program. In addition, I attended the following continuing legal education seminars during the past five years:

<u>Conference/CLE Name</u>	<u>Date(s)</u>
(a) SCDSS Annual Training (instructor)	02/11/11
(b) Bridge the Gap (instructor)	03/07/11
(c) Injured Workers' Advocates Mid-Year Conference (attendee and instructor)	04/29/11
(d) Bridge the Gap (instructor)	08/01/11
(e) 2011 SCAJ Annual Convention (attendee and instructor)	08/04/11-08/06/11
(f) Law School Moot Court Team - John Belton O'Neill Inn of Court	09/14/11
(g) SC Bar Annual Solo and Small Firm Conference (attendee and instructor)	09/23/11
(h) Masters-in-Equity (instructor)	10/14/11
(i) Johnson Toal & Battiste Annual Seminar (in house training) (instructor)	12/22/11
(j) Supreme Court Lawyer Mentoring Orientation	01/26/12
(k) SC Bar - 2011 Tort Law Update: South Carolina Products Liability Law in the Wake of <u>Branham v. Ford Motor Co.</u> (instructor)	2/14/12
(l) SC Bar - Layin' Down the Law: What Roller Derby can Teach Lawyers about Civil Procedure - (Instructor with Prof. Joel Samuels)	02/24/12
(m) Bridge the Gap (instructor)	03/05/12

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- (n) Supreme Court Lawyer Mentoring Pilot Program 03/19/12
- (o) O'Neill Inn of Court 03/27/12
- (p) Briefcase Lawyer: Essentials (attendee and instructor) 03/30/12
- (q) SC Bar - Recent Ethics Issues for Employment Attorneys (instructor) 05/11/12
- (r) Bridge the Gap (instructor) 07/30/12
- (s) 2012 SCAJ Annual Convention (attendee and instructor) 08/02/12-08/24/12
- (t) SC Bar Annual Solo and Small Firm Conference (attendee and instructor) 09/14/12
- (u) Rise of Independent Judiciary - John Belton O'Neill Inn of Court 09/19/12
- (v) USC Center for Child and Family Studies Annual CLE (instructor) 10/05/12
- (w) Injured Workers' Advocates Annual Convention (instructor) 11/01/12
- (x) SCAJ Auto Torts XXXV (attendee and instructor) 11/30/12-12/01/12
- (y) USC Center for Child and Family Studies Lunch and Learn (instructor) 12/07/12
- (z) SC Bar - SC Tort Law Update (moderator) 02/15/13
- (aa) Summary Court Judges Association Meeting (instructor) 02/21/13
- (bb) Unconstitutionality of the Senate Filibuster – John Belton O'Neill Inn of Court 03/19/13
- (cc) SC Commission on Indigent Defense Annual Public Defender Best Practices Seminar (attendee and instructor) 03/25/13
- (dd) SC Bar - Recent Developments in Employment Law (instructor) 05/17/13
- (ee) Gray's Inn of Court v SC School of Law - John Belton O'Neill Inn of Court 09/11/13
- (ff) SC Bar - Current Issues in Workers' Compensation Law (attendee and instructor) 09/13/13
- (gg) SC Commission on Indigent Defense - Gideon at 50 09/20/13
- (hh) SC Bar - 2013 Hot Tips from Coolest Domestic Law Practitioners (instructor) 09/27/13

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- (ii) SC Bar - 2013 Appellate Practice Project: Presenting Criminal Cases to the Court of Appeals (instructor) 10/24/13
- (jj) Injured Workers' Advocates Annual Convention (instructor) 11/07/13-11/08/13
- (kk) Richland County Bar Annual Free Ethics CLE 11/01/13
- (ll) SCAJ - 2013 Auto Torts XXVI (attendee and instructor) 12/06/13
- (mm) Sowell Gray Stepp & Laffitte day-long seminar on procedure (attendee and instructor) 01/15/14
- (nn) SC Commission on Indigent Defense Annual Public Defender Best Practices Seminar (attendee and instructor) 03/24/14
- (oo) Supreme Court Lawyer Mentoring Workshop (instructor) 06/19/14
- (pp) SC Bar - SC Tort Law Update (moderator and instructor) 02/14/14
- (qq) SCAJ 2014 Annual Convention (attendee and instructor) 08/07/14-08/09/14
- (rr) SC Bar - 2014 Hot Tips from the Coolest Domestic Law Practitioners (instructor) 09/26/14
- (ss) Social Media in the Courtroom - John Belton O'Neall Inn of Court 10/14/14
- (tt) Stand Your Ground, or Don't - John Belton O'Neall Inn of Court 11/11/14
- (uu) SCAJ - 2014 Auto Torts Advanced Trial Lawyer College XXXVI (attendee and instructor) 12/05/14-12/06/14
- (vv) SC Bar - SC Tort Law Update (moderator and instructor) 02/13/15
- (ww) Supreme Court Lawyer Mentoring Program (instructor) 03/12/15
- (xx) Workers' Compensation: Meeting the Challenges of a Dynamic Practice (attendee and instructor) 05/08/15
- (yy) SC Women Lawyers' Association (instructor) 07/16/15
- (zz) SCAJ - 2015 Annual Conference (attendee and instructor) 08/06/15-08/07/15
- (aaa) SCDSS Paralegal Seminar (instructor) 08/21/15
- (bbb) SC Bar - Hot Tips from the Coolest Domestic Law Practitioners (instructor) 09/25/15
- (ccc) SC Bar - Trust Account School LEAPP 09/29/15

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- (ddd) SC Bar – Advertising School LEAPP
(instructor) 09/29/15
- (eee) Hitler’s Courts: The Betrayal of the Rule of Law –
John Belton O’Neill Inn of Court 10/13/15
- (fff) SC House of Representatives - Keeping it Real in the
House: An Update 10/20/15
- (ggg) SC Judicial Department Discipline Conference (attendee
and instructor) 10/28/15
- (hhh) Supreme Court Lawyer Mentoring Workshop (instructor)
11/05/15
- (iii) Richland County Bar Annual Ethics CLE (attendee and
instructor) 11/06/15
- (jjj) Richland County Bar Ethics CLE (attendee and instructor)
11/06/15
- (kkk) Advocacy Tips from the Bench - Charleston Livability
Court – John Belton O’Neill Inn of Court 11/10/15
- (lll) SCAJ - 2015 Auto Torts Advanced Trial Lawyer College
XXXVIII (attendee and instructor) 12/04/15-12/05/15
- (mmm) SC Tort Law Update (moderator and instructor) 02/12/16
- (nnn) SC Bar - SC Appellate Practice - (attendee and instructor)
02/16/16
- (ooo) SCDSS - Effective Appellate Advocacy: Written and Oral
Communications to the Appellate Court (attendee and
instructor) 04/15/16
- (ppp) Richland/Lexington Airport District Commission
Planning Retreat/Training (instructor) 06/20/16
- (qqq) Resolution of Fee Dispute Board CLE/Training 06/23/16
- (rrr) SC Women Lawyers’ Association (instructor) 07/14/16
- (sss) Best Practices in Testing: A mini-conference for Bar
Examiners 10/18/16

Mr. Nichols reported that he has taught the following law-related courses:

The following are presentations or lectures I have given to various groups and organizations. Most of these presentations related to general case law updates or discussions on trial or appellate practice and procedure, professional responsibility/ethics, tort law, or law office management. I have listed the presentations in reverse chronological order grouped by entity sponsoring the conference of CLE. I can provide materials for most of these presentations.

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- (a) Reflections on Oral Arguments, South Carolina Supreme Court Institute (Co-sponsored by the Supreme Court of SC and the S.C. Bar Law Related Education Division) (June 2016, June 2015, June 2014). The South Carolina Supreme Court Institute is for social studies teachers, U.S. government/history teachers and school resource officers, and is limited to 16 participants. Each year I reviewed briefs and observed Supreme Court oral arguments with Institute participants, and then assisted Supreme Court staff with interactive discussions of the arguments we observed. I also assisted in preparing participants who engaged in a moot arguments before Court staff. (b) Scope of Review, Judicial Discretion, Law of the Case (Seminar for Appellate Judges – South Carolina Court Administration, May 1996). I gave three separate presentations on basic appellate procedure topics as part of an Appellate Judicial CLE.
- (c) Service of Process in South Carolina State Court (Summary Court Judges Association Meeting, Feb 2013). I trained magistrate and municipal court judges on statutes, rules and case law governing service of process.
- (d) The New Tort Laws: Effect on Magistrate's Court (Summary Court Judges Association Meeting, Sept 2005). I presented an overview of the Tort Law legislation of 2005 to magistrate and municipal court judges.
- (e) Case Law Update (Summary Court Judges Association Meeting, Oct 1993). I gave a presentation of case summaries for appellate court opinions covering the prior 12 months.
- (f) SC Appellate Practice Seminar – Issue Preservation: What to do “Below” to Win “Above” (SC Bar, Feb 2016). I gave a presentation on error preservation for appellate review in conjunction with the publication of the book Appellate Practice in South Carolina (Third Edition) by CJ Jean H. Toal.
- (g) SC Tort Law Update - moderator (SC Bar, Feb 2016). I moderated presentation of tort law topics as part of the update to the book South Carolina Law of Torts (Fourth Edition) by Professors Patrick Hubbard and Robert Felix.

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- (h) SC Domestic Bench Bar Hot Tips: Ethics and Family Court (SC Bar, Sept 2015). I gave a presentation on ethical issues in Family Court as part of the SC Bar Domestic Relations - Section's Annual Bench/Bar CLE.
- (i) SC Tort Law Update - moderator (SC Bar, Feb 2015). I moderated presentation of tort law topics as part of the update to the South Carolina Law of Torts (Fourth Edition) by Hubbard & Felix.
- (j) Domestic Relations Hot Tips: Use it or Lose it! Protecting a Family Court Record for Appellate Review! (SC Bar, Sept 2014). I gave a presentation on presenting issues at trial to preserve them for appeal as part of the SC Bar Domestic Relations Section's Annual Bench/Bar CLE.
- (k) Presenting Criminal Cases to the Court of Appeals - Appellate Strategies (SC Bar, Oct 2013). I presented a discussion of effective appellate advocacy in criminal appeals.
- (l) Domestic Relations Hot Tips: Adoption Update: The ICWA (SC Bar, Sept 2013). I gave an overview of the Indian Child Welfare Act in the wake of Adoptive Couple v. Baby Girl.
- (m) Current Issues in Workers' Compensation: Case Law Update (SC Bar, Sept 2013). I gave an overview of recent appellate decisions impacting workers' compensation law.
- (n) Recent Developments in Employment Law: Ethics (SC Bar, May 2013). I gave a presentation of ethical issues impacting employment law practice.
- (o) SC Tort Law Update (SC Bar, Feb 2013). I moderated presentation of tort law topics as part of the update to the South Carolina Law of Torts (Fourth Edition) by Profs. Hubbard & Felix.
- (p) Attorney Fee Issues Affecting Solo and Small Firm Practitioners (SC Bar, Sept 2012). I gave a presentation at the SC Bar Solo and Small Firm Conference on issues affecting attorney fees, including ethical considerations.
- (q) Recent Ethics Issues for Employment Attorneys (SC Bar, May 2012). I gave a presentation covering disciplinary decisions involving employment law practitioners.
- (r) Brief Case Lawyer: Essentials for Every Practitioner: Top 10 Traps and How to Avoid Them (SC Bar, March

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2012). I gave a presentation of ten potential traps for the appellate court practitioner.

- (s) Layin' Down the Law: What Roller Derby can Teach Lawyers about Civil Procedure (SC Bar, Feb 2012). I gave a joint presentation with Professor Joel Samuels covering amendments to the Federal Rules of Civil Procedure and updated state court practice rules.
- (t) 2011 Tort Law Update: South Carolina Products Liability Law in the Wake of *Branham v. Ford Motor Co.* (SC Bar, Jan 2012). I presented a discussion of products liability jurisprudence following the decision in *Branham v. Ford Motor Co.*, in which the Supreme Court adopted Section 2 of The Restatement (Third) of Torts: Products Liability (1999) for design defect product liability cases.
- (u) 2011 Master-In-Equity Bench Bar: Attorney as Witness (SC Bar, Oct 2011). I presented a discussion of practical and ethical considerations of an attorney acting as a witness and an advocate in matters before the Masters in Equity.
- (v) 2011 Solo & Small Firm CLE: Best Practices for a Successful Law Firm (SC Bar, Sept 2011). I gave a presentation of best practices for managing various aspects of the small law firm.
- (w) 2010 Tort Law Update: Verdicts, Settlements, Liens and Other Claims: Practical and Ethical Concerns (SC Bar, Nov 2010). I gave a presentation on ethical considerations revolving around verdicts and settlements, including dealing with claims by third parties.
- (x) 2009 Masters in Equity Bench Bar (SC Bar, JCLE Oct 2009). I presented an overview of practice before the Masters in Equity Court in conjunction with the publication of Masters in Equity and Special Referees (Second Edition).
- (y) South Carolina Damages (SC Bar, Sept 2009). I gave a presentation on the measure of recovery for medical bills and other damages in light of the collateral source rule in conjunction with the publication of South Carolina law of Damages.
- (z) 2006 Master-in-Equity Bench/Bar: "Foreclosure: What is it?"- Common Problems: Service of Process (SC Bar,

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Oct 2006). I gave a presentation on problems in mortgage foreclosure matters, including difficulties with service of process.

- (aa) Tort Legislation Update (SC Bar, Dec 2005). I gave an overview of the Tort legislation of 2005.
- (bb) Workers' Compensation Legislative and Case Law Update (SC Bar, Aug 2005). I gave a review of cases and legislation impacting workers' compensation law over the previous year.
- (cc) Ethical Considerations for Federal Practitioners (SC Bar, Sept 2004). I participated in a panel discussion with a federal judge and a defense practitioner regarding ethical issues in federal court.
- (dd) New Attorney Oath (SC Bar - Aug 2004, Sept 2004, Oct 2004, Feb 2005, March 2005, April 2005, May 2005). I assisted Jill Rothstein, the SC Bar's Risk Management Director, and Barbara Seymour, the Supreme Court's Assistant Disciplinary Counsel, with training regarding the amended attorney oath; a judge administered the oath to the participants at the end of each seminar.
- (ee) Damages in Medical Malpractice Cases (SC Bar, May 2004). I gave an overview of damages recoverable in various types of medical negligence cases.
- (ff) Damages in Land Sale Contract Cases (SC Bar, May 2004). I gave a discussion of damages recoverable by statute or through case law in land sale contract cases.
- (gg) The Basics of Handling an Appeal: Preserving the Record Below and Getting Your Case Before the Appellate Court (SC Bar Trial and Appellate Advocacy Section, 2004 South Carolina Bar Convention, Jan 2004). I gave a primer on error preservation and presenting a case to the appellate courts in South Carolina.
- (hh) Federal Practice in the District of South Carolina (SC Bar, Sept 2003). I coordinated speakers and moderated a full day seminar on federal practice in South Carolina.
- (ii) South Carolina Tort Claims Act Seminar: Exceptions to the Waiver of Sovereign Immunity- Part II (SC Bar, Aug 2003). I gave an overview of the exceptions to the waiver of sovereign immunity found in S.C. Code Ann. § 15-78-60 in conjunction with publication of the

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book The South Carolina Tort Claims Act (Second Edition) (SC Bar 2003).

- (jj) Affects or Effects: Pending Appellate Issues in Workers' Compensation (SC Bar, May 2003). I gave a summary of cases pending before the appellate courts that impacted the law of workers' compensation in South Carolina.
- (kk) Appellate Motions and Writs (SC Bar, Oct 2002). I gave a description of motions and writs available before the appellate courts in South Carolina and a practical guide on perfecting petitions and motions.
- (ll) Ethics for Federal Practitioners (SC Bar, Sept 2002). I participated in a panel discussion on ethics in federal court with a federal judge, a defense lawyer, and a law professor for the Federal Bar Association annual seminar.
- (mm) Distance Learning Program - Seminars Direct Videotape CLE - The Attorney as Supervisor: Ethics and Your Employees (SC Bar, Sept 2001). I wrote materials for and appeared in a distance learning videotape outlining ethical rules governing attorneys who supervise non-lawyer staff.
- (nn) Bridge the Gap: Creating and Maintaining Client Relationships (SC Bar, March and May 2001-2005). I presented a primer on creating and maintaining client relationships for recent law school graduates and newly admitted lawyers.
- (oo) Bridge the Gap: Practicing Before the Court of Common Pleas (SC Bar, Mar 2009-2012, July 2010-2012 (Panelist)). I participated in a panel discussion with a Circuit Court judge, a prosecutor, a criminal defense lawyer and a civil defense lawyer for recent law school graduates and newly admitted lawyers.
- (pp) Breakfast Ethics: Ethical Issues Involving Non-Lawyer Employees (SC Bar, June 2000). I gave a presentation at the 2000 SC Bar Convention on ethical rules governing supervision of non-lawyer employees.
- (qq) Appellate Practice in South Carolina - Scope of Review (SC Bar, April 1999). I gave a presentation regarding the scope of appellate review in various types of cases.

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- (rr) Ten Things You Need to Know (SC Bar, Dec 1998). I coordinated a seminar and gave a presentation of ten practical tips for general practitioners regarding tort law.
- (ss) Masters in Equity & Special Referees (SC Bar JCLE, Oct 1998). I gave an overview of practice before Masters in Equity and Special Referees in conjunction with the publication of the book Masters in Equity and Special Referees in South Carolina.
- (tt) Rules of Stacking Auto Insurance (SC Bar, March 1998). I gave an overview of the law governing stacking of underinsured and uninsured motor vehicle coverage in South Carolina.
- (uu) Legal Ethics & Professional Responsibility Issues in Auto Tort Cases (SC Bar, Jan 1998). I moderated and participated in a panel discussion with an appellate court judge, a law professor and a defense lawyer regarding ethical issues in automobile tort cases.
- (vv) Ten Things You Need to Know (SC Bar, Dec 1997). I coordinated speakers to present ten practical tips for general practitioners regarding various areas of the law and moderated the seminar.
- (ww) Discovery (SC Bar, July 1997). I gave a primer on discovery practice in South Carolina state court.
- (xx) Appellate Standard of Review (SC Bar, April 1995). I presented a discussion of statutes and cases governing various standards of appellate review in South Carolina.
- (yy) SC Bar Legislative Roundup for 1994 (SC Bar, Dec 1994). I presented a summary of legislation impacting the practice of law from the 1993-1994 session of the General Assembly.
- (zz) What's Appealable and When? (SC Bar, Sept 1994). I presented an outline and discussion of statutes and cases affecting the appealability of interlocutory rulings.
- (aaa) Trial Motions and Preserving Error (SC Bar, Dec 1991). I presented an overview of methods of preserving issues for appellate review.
- (bbb) Professionalism (SC Judicial Department/Court Administration, Discipline Conference - Commissions on Judicial and Lawyer Conduct, Oct. 2015). I gave a general presentation on professionalism for members of the Office of Disciplinary Counsel, the Commission on

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Judicial Conduct, the Commission on Lawyer Conduct and members of the judiciary.

- (ccc) Ethics for Law Clerks and Staff Attorneys: Professionalism (SC Judicial Department/ Court Administration, Law Clerks/Staff Attorneys Conference, Aug 2004). I gave a presentation on professionalism to lawyers employed as staff attorneys or law clerks with the appellate and trial courts.
- (ddd) Standard of Review (SC Judicial Department/Court Administration, 1997). I presented a presentation on the standards of appellate review to lawyers employed as staff attorneys or law clerks with the appellate courts.
- (eee) Scope of Review (SC Judicial Department/Court Administration, Aug 1995, 1996). I gave a presentation on the scope of appellate review to lawyers employed as staff attorneys or law clerks with the appellate courts.
- (fff) Overview of a Civil Case (SC Judicial Department/Court Administration, Aug 1990). I presented a primer on civil practice for lawyers employed as staff attorneys or law clerks with the appellate or trial courts.
- (ggg) Insurance Law Update (SC Judicial Department/Court Administration, Aug 1988). I presented a primer on insurance law for lawyers employed as staff attorneys or law clerks with the appellate or trial courts.
- (hhh) Service of Process in South Carolina State Courts (SC Summary Court Judges Association Annual Staff Seminar, 2013, 2014). I prepared an overview of statutes, rules and cases governing service of process for staff of magistrates and municipal court judges and presented a primer on service of process to the 2013 conference.
- (iii) Service of Process in South Carolina (SC Association of Probate Judges, May 2010). I presented an overview of statutes, rules and cases governing service of process for Probate Court judges and staff.
- (jjj) Court Rules That Can Get You In Trouble (Ethics) (SC Commission on Indigent Defense, 8th Annual Public Defender Best Practices Seminar March 2014). I presented a discussion of ethical issues impacting public defenders.

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- (kkk) Civility, Professionalism and Ethics for Criminal Practitioners (SC Commission on Indigent Defense, 7th Annual Public Defender Best Practices Seminar March 2013). I presented a discussion of rules of civility, professionalism and ethics for public defenders.
- (lll) Ethics 20-20: New Horizons? (SC Trial Lawyers Association/SC Association for Justice, Dec 2015). I presented a discussion of the ABA's "Ethics 20-20" initiative and its impact in South Carolina
- (mmm) Live and Let Die – What's Left in Family Court? (SC Trial Lawyers Association/SC Association for Justice, Aug 2015). I presented a general discussion of abatement and survival of claims in Family Court following the death of a litigant.
- (nnn) The Devil Is In The Details: Settlement Agreements, Indemnity, Liens (SC Trial Lawyers Association/ SC Association for Justice, Dec 2014). I presented a discussion of ethical issues and duties to third parties interested in settlements of civil matters.
- (ooo) Ethics in the World of Criminal Defense (SC Trial Lawyers Association/SC Association for Justice, Aug 2014). I presented a discussion of ethical issues impacting criminal defense practice.
- (ppp) Litigation at Sunrise: Fresh Torts (SC Trial Lawyers Association/SC Association for Justice, Aug 2014). I presented a brief overview of cases and statutes impacting tort law in 2014.
- (qqq) Songs in the Key of E: An Ethics Discussion in Three Part Harmony! (SC Trial Lawyers Association/SC Association for Justice, Aug 2012). I presented a general discussion of ethics, including succession planning and duties to report, together with Jill Rothstein, Rick Management Director with the SC Bar.
- (rrr) To Fee or Not to Fee: Ethics (SC Trial Lawyers Association/SC Association for Justice, Aug 2011). I presented a discussion of the ethical rules governing fee agreements in South Carolina.
- (sss) Litigation at Sunrise: Flat Fee Agreements (SC Trial Lawyers Association/SC Association for Justice, Aug 2011). I presented a brief discussion of the law governing "flat fees" or fees earned when paid.

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- (ttt) Lien and Mean: Ethical Pitfalls of Third Party Interests (SC Trial Lawyers Association/SC Association for Justice, Dec 2009). I presented a general discussion of ethical rules governing liens and subrogation interests.
- (uuu) It's Around Here Somewhere: Spoliation of Evidence – Trends and Remedies (SC Trial Lawyers Association/SC Association for Justice, Dec 2007). I presented an outline of rules governing spoliation of evidence in South Carolina.
- (vvv) Recent Statutory Changes and Case Law Regarding Punitive Damages (SC Trial Lawyers Association/SC Association for Justice, Oct 2005). I presented a general discussion of the 2005 legislation and recent cases affecting recovery of punitive damages in South Carolina.
- (www) Appeals to Circuit Court (SC Trial Lawyers Association/SC Association for Justice, Aug 2005). I presented a primer on how to prepare and present an appeal from Municipal and Magistrate Courts to the Circuit Court.
- (xxx) Ten Ways to Win an Appeal (SC Trial Lawyers Association/SC Association for Justice, Aug 2002). I presented a discussion of ten suggestions to assist in effective appellate advocacy.
- (yyy) The Electronic Brief (SC Trial Lawyers Association/SC Association for Justice, Aug 2002). I gave a presentation on ways to prepare an “electronic brief” with hyperlinks to cases, statutes, or record cites for appellate or trial practice in South Carolina.
- (zzz) Ethics in Workers’ Compensation Cases (SC Trial Lawyers Association/SC Association for Justice, Aug 2002). I presented a discussion of ethical issues impacting practice before the SC Workers’ Compensation Commission.
- (aaaa) Ethical Issues Involving Non-Lawyer Employees (SC Trial Lawyers Association/ SC Association for Justice, Aug 2001). I presented a discussion of the rules and cases outlining ethical duties regarding non-lawyer employees.
- (bbbb) Ethics Top “Ten” - A Review of 2010 (Injured Workers Advocates/Association of SC Claimant Attorneys for

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Workers' Compensation, April 2011). I presented an update of disciplinary decisions and changes in rules governing ethics in 2010.

- (cccc) Case Law and Legislative Update (Injured Workers Advocates/Association of SC Claimant Attorneys for Workers' Compensation, Nov 2005). I presented a discussion of case summaries and legislation involving workers' compensation in South Carolina.
- (dddd) Appealing to the Court of Appeals: Being a More Effective Advocate (Injured Workers Advocates/Association of SC Claimant Attorneys for Workers' Compensation, Nov 2004). I presented a general discussion of effective appellate advocacy in workers' compensation appeals.
- (eeee) Ethics and the Paralegal (Injured Workers Advocates/Association of SC Claimant Attorneys for Workers' Compensation, Jan 2002). I presented a discussion of the rules and cases governing ethical considerations for law firm employees.
- (ffff) Update to Recent Cases, Statutes and Legislation (Injured Workers Advocates/ Association of SC Claimant Attorneys for Workers' Compensation, May 2002, Sept 2002, May 2003, Oct 2003, May 2004, Oct 2004, May 2005, Oct 2005, May 2006, Oct 2006, May 2007, Oct 2009, Oct 2010, Oct 2013). I presented a "case law update" given in the Spring and Fall of each year to present the most recent appellate cases impacting workers' compensation in South Carolina.
- (gggg) Appellate Case Law Update (SC Workers' Compensation Education Association, Oct 2003, Oct 2004, Oct 2005). I presented a "case law update" given annually to present the most recent appellate cases impacting workers' compensation in South Carolina.
- (hhhh) Technology, Lawyers and the Commission (Injured Workers Advocates/ Association of SC Claimant Attorneys for Workers' Compensation, Oct 2002). I presented an updated discussion of technology trends including electronic filing, service and exchange of information in workers' compensation practice.
- (iiii) Technology and the Future of Workers' Compensation (Injured Workers Advocates/Association of SC

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Claimant Attorneys for Workers' Compensation, panel and electronic presentation - Oct 2001). I presented a discussion of technology trends including electronic filing, service and exchange of information in workers' compensation practice.

- (jjjj) United States Supreme Court Review (SC Women Lawyers Association, July 2016). I presented a summary of selected decisions of the 2015-2016 term of the Supreme Court of the United States.
- (kkkk) United States Supreme Court Review (SC Women Lawyers Association, July 2015). I presented a summary of selected decisions of the 2014-2015 term of the Supreme Court of the United States.
- (llll) The Trial is Over: It's On to the Appellate Courts (SC Appleseed Legal Justice Center, May 2010). I presented a discussion of the preparation and presentation of an appeal in South Carolina.
- (mmmm) Ethics and Trust Accounts (Richland County Bar Association, Nov 2015). I presented a discussion of the ethical rules and cases governing creating and maintaining client trust accounts in South Carolina.
- (nnnn) Issues With Service of Process (SC Association of Legal Investigators, Oct 2006). I gave a presentation updating the statutes, rules and cases governing service of process in South Carolina and various issues that may arise to nonlawyer legal investigators and process servers.
- (oooo) Overview of Process Service in South Carolina (SC Association of Legal Investigators, May 2007). I presented a primer on the law governing service of process in South Carolina to nonlawyer legal investigators and process servers.
- (pppp) Effective Appellate Advocacy: Written and Oral Communications to the Appellate Court (SC Department of Social Services, April 2016). I presented a discussion of methods for effective written and oral appellate advocacy in South Carolina.
- (qqqq) Professional Ethics for Paralegals (SC Department of Social Services, Aug 2015). I presented an overview of the rules governing certification and ethical considerations for paralegals in South Carolina.

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- (rrrr) Ethics Top Ten (SC Department of Social Services, Feb 2011). I presented a discussion of ten significant ethical issues and a suggestion on how to avoid them.
- (ssss) The Paralegal's Practical Guide to Pre-Trial Case Management in Federal Court (Palmetto Paralegal Education Association, Institute for Paralegal Education - Dec 2002). I presented a primer on trial practice in the Federal District Court for South Carolina.
- (tttt) Federal Rules of Evidence (Palmetto Paralegal Education Association, Luncheon Speaker Feb 2003). I presented an overview of evidentiary rules in the Federal District for South Carolina.
- (uuuu) Perspective Talking Points on the Recent SC ICWA Case: Adoptive Couple v. Baby Girl, Birth Father, and the Cherokee Nation (USC Center for Child and Family Studies, Dec 2012). I presented an overview of the history of the federal Indian Child Welfare Act and its application in Adoptive Couple v. Baby Girl.
- (vvvv) Effectuating Service of Process on Parents of Immigrant Children Outside the United States in Child Abuse and Neglect Proceedings (USC Center for Child and Family Studies, Oct 2012). I gave a presentation with Professor Joel Samuels on the Hague Convention on Civil Service of 1965 and its use in international cases involving child abuse or neglect proceedings.
- (wwww) Ethics: Top Ten for 2010 - Review of Disciplinary Cases (USC Center for Child and Family Studies, Feb 2010). I gave a presentation on ten ethical issues emerging from disciplinary cases for the prior year.
- (xxxx) Ethics for Members of Boards and Commissions (Richland-Lexington Airport District Commission Planning Retreat, June 2016). I gave a presentation on statutes, rules and cases governing members of public boards and commissions in South Carolina.
- (yyyy) 2003 Regional Judges Forum (Panelist) (Roscoe Pound Institute, Aug 2003). I participated in a panel discussion of the judicial decision making process.
- (zzzz) Appellate Considerations for Trial Practitioners (Joye Law Firm "Lunch and Learn," Nov 2015). I presented a primer on presenting and preserving issues for appellate review.

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- (aaaaa) Top 10 Ethical Considerations for Young Lawyers (Richland County Young Lawyers June 2015). I presented a review of ten ethical issues, the rules governing those issues, and ways young lawyers can avoid violating those rules.
- (bbbbb) Presenting Workers' Compensation Cases to the Appellate Courts (Mickle & Bass, May 2015). I presented a primer on effective appellate written and oral advocacy in workers' compensation cases.
- (ccccc) Written Discovery (Sowell Gray Stepp & Laffitte, Jan 2014). I participated in a panel discussion with Honorable Diane S. Goodstein and Robert Stepp on written discovery tools available in South Carolina.
- (dddd) Ethics Top Ten for 2010/2011 (Johnson Toal & Battiste, Dec 2011). I gave a presentation on ten major ethical issues for practitioners and their staffs and how to avoid those issues.
- (eeee) Effective Appellate Advocacy (Charleston Art of Trial Advocacy Workshop, April 2008). I gave a presentation on effective written and oral appellate advocacy in South Carolina.
- (ffff) Lunch and Learn: Developing a Legal Career (SC Bar Young Lawyers Division, January 2016). I gave a presentation with Sally W. Elliott of the South Carolina Department of Corrections' Office of General Counsel regarding career tracks available in the law. This was part of a "Lunch and Learn" series organized by US District Court Judge J. Michelle Childs.
- (ggggg) The Main Event – A Debate Between South Carolina Legislators (SC Association for Justice Convention, Consolidated Sections Seminar, August 2016). Thiele McVay and I co-moderated a debate between Senator Shane Massey and Senator Marlon Kimpson regarding recent legislative proposals in South Carolina.
- (hhhhh) Recent Appellate Cases You Need to Know (SC Association for Justice Convention, Litigation at Sunrise, August 2016). I gave a brief overview of several recent appellate cases impacting tort litigation practice in South Carolina.
- (iiii) Trends in Products Liability Law (SC Association for Justice Convention, Torts & Negligence Seminar,

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August 2016). I presented an overview of trends in federal and South Carolina state products liability law.

(jjjjj) Ethics in Government (SC Association for Justice Convention, Ethics and Professionalism Seminar, August 2016). I facilitated a discussion with Senator Shane Massey and Senator Marlon Kimpson about the history, operation and 2016 changes to the Ethics, Government Accountability, and Campaign Reform Act.

(kkkkk) Service of Process (Children's Law Center, USC School of Law, August 2016). This was an overview of service of process for non-lawyers employed by the SC Department of Social Services.

(lllll) Professional Ethics for Paralegals (Children's Law Center, USC School of Law, August 2016). This was a general ethics presentation that focused on the requirements for notarizing documents, protecting confidentiality, and avoiding the unauthorized practice of law.

Mr. Nichols reported that he has published the following:

- (a) Trial Handbook for South Carolina Lawyers (Second Ed. through Fifth Ed.), by the Hon. Alexander M. Sanders and John Nichols (Thomson Reuters/West Group 1995-2016) and by the Hon. Alexander M. Sanders, Deborah Neese, and John Nichols (First Ed. Lawyers Co-Op. Pub. Co.1994), Contributing Author.
- (b) Service of Process in South Carolina (SC Bar CLE 2005; Second Ed. 2009; Third Ed. 2012; Fourth Ed. 2014), Author.
- (c) Masters in Equity and Special Referees in South Carolina (SC Bar CLE 1996, revised 1998; Second Edition 2002; Third Edition 2006, Revised 2009; Fourth Ed. 2012), Author.
- (d) South Carolina Law of Torts (Fourth Ed.)(SC Bar CLE 2011) Annual Update by E. Scott Moise and John S. Nichols (2012-2015), Contributing Author.
- (e) Law School for Nonlawyers: Tort Law in South Carolina (SC Bar Pro Bono Program 2006-2016), Author.
- (f) Annual Case Law and Legislative Update (SC Bar CLE 1996-2012), Author.

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- (g) Ethical Issues Involving Non-Lawyer Employees (SC Bar CLE Distance Learning (2000)), Author.
- (h) South Carolina Jurisprudence (SC Bar CLE 1994), Pocket Part Supplements, Twenty-Five Volumes, Author.
- (i) South Carolina Jurisprudence (SC Bar CLE 1993), Pocket Part Supplements, Twenty Volumes, Author.
- (j) Ervin's Jury Charges (SC Bar CLE 1994-1996) Annual Pocket Part Supplements, Two Volumes, Author.
- (k) Fast Forward Decisions/Annual Case Law Update (SC Bar CLE 1991-1994), Author.
- (l) What's New? (column author/editor) (South Carolina Lawyer, SC Bar Magazine 2000-2004), Editor and Author.
- (m) A Trail of Tiers: Limitations on Punitive Damages under South Carolina's 2011 Tort Legislation. (The Bulletin - SC Association for Justice Magazine, (Fall 2011)), Author.
- (n) Safeguarding the Truth in Court - The Doctrine of Judicial Estoppel. (South Carolina Lawyer, SC Bar Magazine January-February 2002 issue), Author.
- (o) When the Defendant Fails to Forward the Papers - Has Shores v. Weaver Been Statutorily Overruled? (The Bulletin - SC Association for Justice Magazine, (Summer 2001)).
- (p) Appellate Watch: Preserving Error from the Respondent's Perspective. (The Bulletin - SC Association for Justice Magazine, (Winter 2000)).
- (q) Where Have You Gone, Atticus Finch? (The Bulletin - SC Association for Justice Magazine, (Summer 2000)).
- (r) Criminal Trial Notebook (SC Court Administration 1990). Contributing Author.
- (s) South Carolina Damages (Second and Third Editions) (SC Bar CLE 2009, 2016). Contributing Author.
- (t) Appellate Practice in South Carolina, by Hon. Jean H. Toal (SC Bar CLE 1999, 2002, 2016), Editorial Board.
- (u) South Carolina Damages by Jay Ward and Edward Westbrook (SC Bar CLE 2005, 2009), Editorial Board.
- (v) Environmental Law in South Carolina (Fourth Edition) by Samuel L Finklea (SC Bar CLE 2016), Editorial Board.

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- (u) Manual for Appellate Central Staff Attorneys (South Carolina Court of Appeals (1995-1996). Contributing Author.

(4) Character:

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

The Commission also noted that Mr. Nichols 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. Nichols reported that he has an AV rating from Martindale-Hubbell, is a Top Rated Appellate Lawyer by Super Lawyers, has a Lawyer of the Year rating from Best Lawyers in America, has a 7.1 AVVO rating, and has a 5.0/5.0 from Lawyers.com.

Mr. Nichols reported that he has held the following public office: South Carolina Commission on Indigent Defense 2012- Present

(6) Physical Health:

Mr. Nichols appears to be physically capable of performing the duties of the office he seeks.

(7) Mental Stability:

Mr. Nichols appears to be mentally capable of performing the duties of the office he seeks.

(8) Experience:

Mr. Nichols was admitted to the South Carolina Bar in 1985.

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

- (a) May 1985 - November 1985. Furr & Delgado - Law Clerk. I assisted general family law and criminal defense

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- litigation practitioners with preparation for trial and during the trial of civil, criminal and family law cases.
- (b) November 1985 – December 1985. Furr & Delgado - Associate Lawyer. Once I was admitted to the SC Bar in November 1985, I acted as an associate lawyer assisting with criminal, domestic relations and tort law litigation while interviewing for permanent employment.
 - (c) December 1985 – July 1986. Rogers & Koon - Associate Lawyer. I represented lenders in mortgage foreclosure actions and engaged in general civil and criminal defense litigation.
 - (d) July 1986 - April 1996. South Carolina Court of Appeals. I had the following legal experiences while with the South Carolina Court of Appeals:
 - i. July 1986 - July 1988. Central Staff Attorney. I reviewed records and briefs and prepared bench memoranda for cases assigned to the judges on the panel.
 - ii. July 1988 - December 1993. Deputy Chief Staff Attorney. I reviewed records and briefs and prepared bench memoranda for the cases assigned to the judges on the panel. I also assisted Chief Judge Alex M. Sanders as needed.
 - iii. December 1993-April 1996. Chief Staff Attorney. I reviewed records and briefs and prepared bench memoranda or prehearing reports for the judges on the panel. I also supervised 4 other staff attorneys, interviewed and recommended law clerks and staff attorneys for the court, assisted the judicial department with training for new appellate court judges and staff, and attended ABA conferences on behalf of the Court. I also assisted Chief Judge William T. Howell as needed.
 - iv. Fall 1987. Law Clerk for Chief Judge Alexander M. Sanders, Jr. I attended the panel bench conferences and the oral arguments for cases assigned to Judge Sanders. I assisted Judge Sanders with legal research and drafting

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- of opinions, orders, memoranda, speeches and seminar materials.
- v. Spring and Summer 1988. Law Clerk for Associate Judge Randall T. Bell. I attended bench conferences and oral arguments for cases assigned to Judge Bell. I also assisted Judge Bell with legal research and drafting of opinions, orders, memoranda, and seminar materials.
- vi. October 1992- August 1993. Law Clerk for Acting Associate Judge (retired Chief Justice) C. Bruce Littlejohn. I attended bench conferences and oral arguments for cases assigned to Judge Littlejohn, who sat with the Court of Appeals by assignment due to a vacancy on the Court. I also assisted Judge Littlejohn with legal research and drafting of opinions, orders and memoranda.
- (e) April 1996 - June 2000. Suggs & Kelly, Lawyers, P.A. I investigated, prepared and litigated pharmaceutical products liability cases nationwide and assisted with the preparation and argument of motions and appeals in state and federal courts in South Carolina and numerous other states (appeared pro hac vice).
- (f) June 2000 - December 2007. Bluestein & Nichols, LLC. I co-founded a general litigation and appellate practice. My primary focus was preparing and arguing cases before the South Carolina state and federal trial or appellate courts.
- (g) January 2008 to present. Bluestein Nichols Thompson & Delgado, LLC. I engaged in a general litigation and appellate practice, represented lawyers before the South Carolina Supreme Court's Office of Disciplinary Counsel, and provided expert witness testimony in legal malpractice or attorney fee matters.
- (h) 2003 to present - South Carolina Board of Law Examiners. I prepared questions for and graded one topic on the SC Bar Exam given in February and July each year. I also did peer-review of the other five topics. I initially graded one topic from 2003 to 2008 and

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switched to a different topic 2009 to present. I served the Board in the following roles:

- i. 2003 to 2007. Associate Board Member. I assisted Board member Keith Babcock in preparing and grading one section of the South Carolina Bar Exam.
 - ii. 2007 to present. Board Member. I supervised Associate Board members David Rothstein and Shannon Bobertz as a team in preparing and grading one section of the South Carolina Bar Exam, and assisted the remaining Board Members in the overall administration of the exam.
 - iii. January 2016 to present. I was appointed by Chief Justice Costa M. Pleicones to serve as a member of the Supreme Court's task force to assist in development and implementation of the Uniform Bar Exam in South Carolina beginning in January 2017.
- (i) June 2014 - present. I served as special counsel to the South Carolina House of Representatives Ethics Committee and the South Carolina Speaker of the House. I assisted the Ethics Committee and the Speaker with issues that arose under the SC Ethics in Government and Accountability Act or other statutes, rules or case law relevant to ethical issues involving the members or staff of the South Carolina House of Representatives.
 - (j) July 2016 - present. I served as special counsel to the South Carolina Senate Ethics Committee. I advised and assisted the Senate Ethics Committee on issues arising under the SC Ethics in Government and Accountability Act or other statutes, rules or case law relevant to ethical issues involving the members or staff of the South Carolina Senate.
 - (k) January 2016 - present. I serve as a member of the South Carolina Resolution of Fee Disputes Board. As a board member, I investigate fee disputes between South Carolina lawyers and their clients or sit on panels deciding fee disputes investigated by other panel members.

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Mr. Nichols reported the frequency of his court appearances during the past five years as follows:

- (a) Federal: Approximately 5 times a year, including appellate cases
- (b) State: Approximately 35 times a year, including appellate cases

Mr. Nichols reported the percentage of his practice involving civil, criminal, and domestic matters during the past five years as follows:

- (a) civil: 50%
- (b) criminal: 10%
- (c) domestic: 20%
- (d) other: 20% (this includes appearances before the office of disciplinary counsel, work as an expert witness, and my role with the House and Senate Ethics Committees)

Mr. Nichols reported the percentage of his practice in trial court as follows:

- (a) jury: 15%
- (b) non-jury: 85%

Mr. Nichols provided that he most often served as associate counsel in jury matters, and chief counsel in nonjury matters.

The following is Mr. Nichols' account of his five most significant litigated matters:

- (a) Lawing v. Univar, USA, Inc., 415 S.C. 209, 781 S.E.2d 548 (2015). This case answered the novel issues of whether an employee of an independent contractor was a "user or consumer" of a product warning on hazardous material, whether the "sophisticated user" defense to a products liability case is the law of South Carolina, and the parameters of the sophisticated user defense if adopted in the future.
- (b) Brown v. Baby Girl Harper, 410 S.C. 446, 766 S.E.2d 375 (2014). Although I lost this case, it presented the first opportunity to construe aspects of the voluntary child adoption laws in South Carolina and the "substantial compliance" doctrine adopted in other

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states. The case was also a model for how the appellate courts should handle an expedited appeal in adoption matters; it took only six months to be fully briefed and argued before both the Court of Appeals and the Supreme Court.

- (c) Dawkins v. Union Hosp. Dist., 408 S.C. 171, 758 S.E.2d 501 (2014). This case established that an injury in a hospital from ordinary negligence unrelated to medical treatment was not subject to the medical malpractice procedures adopted in 2007.
- (d) Coleman v. Mariner Health Care, Inc., 407 S.C. 346, 755 S.E.2d 450 (2014). This case established the limits of the Adult Healthcare Consent Act and held a sister could not bind an incompetent resident in a nursing home to an arbitration agreement.
- (e) Brooks v. Kay, 339 S.C. 479, 530 S.E.2d 120 (2000). The Supreme Court described the parameters of S.C. Code Ann. § 19-11-20 (1985), the “Dead Man’s” statute.

Mr. Nichols reported he has handled the following civil appeals:

- (a) C-Sculptures, LLC v. Brown, 403 S.C. 53, 742 S.E.2d 359 (2013) (Supreme Court of South Carolina, 5/8/2013).
- (b) Adoptive Couple v. Baby Girl, 398 S.C. 625, 731 S.E.2d 550 (2012) (Supreme Court of South Carolina, 7/26/2012) reversed Adoptive Couple v. Baby Girl, --- U.S. ---, 133 S. Ct. 2552 (2013).
- (c) James v. Kelly Trucking Co., 377 S.C. 628, 661 S.E.2d 329 (2008) (Supreme Court of South Carolina, 3/10/2008).
- (d) Hooper v. Ebenezer Sr. Services & Rehab., 386 S.C. 108, 687 S.E.2d 29 (2009) (South Carolina Court of Appeals and the Supreme Court of South Carolina, 12/14/2009).
- (e) Baggerly v. CSX Transp., Inc., 370 S.C. 362, 635 S.E.2d 97 (2006) (Supreme Court of South Carolina, 8/28/2006).

Mr. Nichols reported he has handled the following criminal appeals:

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- (a) State v. Tindall, 388 S.C. 518, 698 S.E.2d 203 (2010) (Supreme Court of South Carolina, 8/16/2010).
- (b) State v. Davis, 371 S.C. 412, 639 S.E.2d 457 (Ct. App. 2006) (South Carolina Court of Appeals 12/11/2006).
- (c) State v. Freiburger, 366 S.C. 125, 620 S.E.2d 737 (2005) (Supreme Court of South Carolina, 9/26/2005).
- (d) State v. Parker, 2015-UP-574 (S.C. Ct. App. filed Dec. 30, 2015) (South Carolina Court of Appeals, 12/30/2015).
- (e) State v. Capodanno, 2011-UP-393 (S.C. Ct. App. filed Aug. 18, 2011) (South Carolina Court of Appeals, 8/18/2011).

Mr. Nichols reported that he has never held judicial office. However, in 2016, Circuit Court Judge Alison Lee appointed him to serve as a special referee in a matter which he ultimately dismissed for failure of the plaintiff to prosecute. He also served as a hearing officer in 2009-2010 by consent of the parties in a contested administrative hearing in a dispute involving the South Carolina Commission for the Blind.

Mr. Nichols further reported that he has never sought judicial, elective, or other public office.

- (9) Judicial Temperament:
The Commission believes that Mr. Nichols' temperament would be excellent.
- (10) Miscellaneous:
The Midlands Citizens Committee on Judicial Qualifications found Mr. Nichols to be "Well Qualified" in the evaluative criteria of ethical fitness, professional and academic ability, character, reputation, experience, and judicial temperament, and "Qualified" in the remaining evaluative criteria of constitutional qualifications, physical health, and mental stability. The Committee commented: "Mr. Nichols has exceptional experience in appellant practice, but he also has extensive experience in trial courts which aids an Appeals judge. He is well-known for his integrity and his intellect. His demeanor is excellent."

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Mr. Nichols is married to Tina Michelle Cooke. He has one child from a previous marriage.

Mr. Nichols reported that he was a member of the following Bar associations and professional associations:

(a) South Carolina Bar

- i. Resolution of Fee Disputes Board Member (2016)
- ii. House of Delegates - Solo and Small Firm Representative (2013-2014)
- i. Solo and Small Firm Section (Chair 2012-2013)
- ii. South Carolina Lawyer Magazine (Editor 2004-2006; Editorial Board 1996-2007)
- iii. Continuing Legal Education - Full Committee, 1990-2006 (Chair 1998-2000)
- iv. Conventions Committee, 1998-2006
- v. Professional Responsibility Committee – 1995, 2000-2006, 2009-present
 - A. South Carolina Ethics 2000 Subcommittee - 2001-2003
 - B. Chair, Subcommittee on Overdraft Reporting – 2003
 - C. Chair, Limited Scope Task Force -- 2016
- vi. Trial & Appellate Advocacy Section - 1999, 2001-present
- vii. Continuing Legal Ed - Publications Subcommittee, 1990-2007 (Chair 1996-1998)
- viii. Continuing Legal Education Committee
 - A. Seminars Subcommittee, 1990-1993
 - B. Continuing Legal Ed - Media Services Subcommittee, 1989-1991

(b) Richland County Bar Association

(c) South Carolina Association for Justice/SCTLA

- i. Immediate Past President 2008-2009 (SCAJ)
- ii. President 2007-2008 (SCTLA/SCAJ)
- iii. President-Elect 2006-2007
- iv. Vice-President 2005-2006
- v. Treasurer 2004-2005
- vi. Secretary 2003-2004
- vii. Editor The Bulletin 2002-2003

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- viii. Legislative Steering Committee, 1999-2011
- ix. Honors and Awards Committee, 2003, 2005
- x. Executive Committee 2004-2012
- xi. Legislative Liaison Negotiating Team Member 2004-2005
- xii. Ethics and Professionalism Committee, 2001-2002, 2008-present (Chair)
- xiii. Appellate Practice Committee, 2001-present (Co-Chair 2005-2006)
- xiv. President's Council Chair (2012-2013)
- xv. President's Council Board of Governors Representative (2013-2014)
- (d) Federal Bar Association, South Carolina Chapter
 - i. President 2002-2003
 - ii. President-elect 2001-2002
- (e) American Bar Association
 - i. ABA Council of Appellate Staff Attorneys
 - A. Education Committee, 1994-1995
 - B. Scholarship Committee, 1993-1994
 - ii. Judicial Administration Division (appellate practitioner member) (2016)
- (f) John Belton O'Neill Inns of Court
- (g) Roscoe Pound Institute Member Fellow
- (h) Southern Trial Lawyers Association
- (i) American Association for Justice/ATLA
 - i. Leaders Forum (2008-2013)
- (j) Public Justice Foundation
- (k) South Carolina Supreme Court Historical Society

Mr. Nichols provided that he was a member of the following civic, charitable, educational, social, or fraternal organizations:

- (a) University of South Carolina Coaches v Cancer Committee (Chair 1996-2012)
- (b) Richland Library Foundation Board (Nominating Committee Chair 2014)
- (c) Furman University Riley Institute Diversity Leadership Consortium (Founding Member)
- (d) South Carolina Supreme Court Mentoring Program trainer (2012-2016)
- (e) University of South Carolina Alumni Association (1996-present)

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- (f) Francis Marion University Alumni Association (1978-present)

Mr Nichols further reported:

I was raised in a large family in Florence, South Carolina, by two very loving parents. Both of them instilled in me the importance of good work ethic, discipline, and respect for others.

I received an outstanding education at St. Anthony's Parish parochial school and then at Francis Marion College, where I majored in mathematics and minored in philosophy and religion. The variety of experiences at Francis Marion helped shape my study habits and research skills.

As a lawyer, I am contacted regularly by other lawyers who ask for help on various legal issues, and I give freely of my time. I also volunteer to mentor law students through the University of South Carolina School of Law and through the John Belton O'Neill Inns of Court. I volunteer my time to mentor young lawyers and train other lawyers how to be mentors through the Supreme Court's Commission on CLE and Specialization. I give this time because I am keenly aware of the help I have received from so many others during my time as a law student and as a lawyer, and I desire to "pay it forward." I believe these experiences will help me with patience and understanding when engaging colleagues, court staff and lawyers at oral argument, and when approaching the decisions in each case.

I have also spent a great deal of time over the past twenty years reviewing proposed legislation, researching and collecting helpful information pertaining to proposed legislation, and testifying before various legislative subcommittees. These experiences have taught me the difficult process that underlies the ultimate passage of legislation, including the debate and give and take on policy decisions. The experiences also have reinforced my understanding of the appropriate roles of the executive, legislative and judicial branches of government.

- (11) Commission Members' Comments:

The Commission commented that Mr. Nichols has an outstanding depth of knowledge of the appellate process and the court system. They also noted his great intellect.

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- (12) Conclusion:
The Commission found Mr. Nichols qualified, but not nominated for election to Supreme Court, Seat 5.

**Matthew T. Richardson
Supreme Court, Seat 5**

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

- (1) Constitutional Qualifications:
Based on the Commission's investigation, Mr. Richardson meets the qualifications prescribed by law for judicial service as a Supreme Court Justice.

Mr. Richardson was born in 1973. He is 43 years old and a resident of Columbia, South Carolina. Mr. Richardson 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. Richardson.

Mr. Richardson 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. Richardson reported that he has not made any campaign expenditures.

Mr. Richardson 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.

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Mr. Richardson 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. Richardson to be intelligent and knowledgeable. His performance on the Commission's practice and procedure questions met expectations.

Mr. Richardson described his continuing legal or judicial education during the past five years as follows:

- (a) Judicial Conference of the Fourth Circuit 5/23/16;
- (b) 2016 RPWB Litigation Seminar 4/15/16;
- (c) Auto Torts XXVIII Advanced Trial Lawyer College 12/4/15;
- (d) Fraud Against the Government & SEC Whistleblower Actions 11/5/15;
- (e) Hitler's Courts: The Betrayal of the Rule of Law 10/13/15;
- (f) The 800th Anniversary of Magna Carta 3/4/15;
- (g) Auto Torts Advanced Trial Lawyer College XXXVII 12/5/14;
- (h) SCALJC Housing Law CLE 11/21/14;
- (i) The Future of the Legal Profession on Both Sides of the Atlantic 9/17/14;
- (j) FBA New Technology and Timeless Principles of Practice 9/5/14;
- (k) SC Supreme Court Lawyer Mentoring Program 7/11/14;
- (l) Mid-Year Update: Opinions of the South Carolina Appellate Courts and Actions of the Legislature 7/11/14;
- (m) Mid-Year Update: Opinions of the South Carolina Appellate Courts and Actions of the Legislature 6/27/14;
- (n) SC Bar Trial Evidence: Artistry & Advocacy in the Courtroom 5/14/14;
- (o) RPWB 2014 Litigation Seminar 4/25/14;
- (p) SC Bar Sporting Clays CLE: Ethics with the Judges 4/24/14;
- (q) SC Bar Straight Talk from the Bench 12/20/13;
- (r) NBI Litigating the Uninsured & Underinsured Motorist Claim 11/21/13;

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- (s) SC Bar Appellate Practice Project: Presenting Criminal Cases to the Court of Appeals 10/24/13;
- (t) Federal Bar Association Annual Seminar and reception 9/5/13;
- (u) SCAJ Annual Convention 8/1/13;
- (v) SC Law Review Symposium 3/1/13;
- (w) SC Bar Law Office Technology 1/26/13;
- (x) SC Bar Federal Criminal Practice 1/25/13;
- (y) SC Bar Trial and Appellate Advocacy Section 1/25/13;
- (z) SC Bar Criminal Law Pt. II 1/25/13;
- (aa) Auto Torts XXXV Seminar 11/30/12;
- (bb) SCAJ Annual Convention 8/2/12;
- (cc) FBA Appellate Advocacy CLE 3/22/12;
- (dd) Auto Torts XXXIV 12/2/11;
- (ee) 2011 SCAJ Annual Convention 8/4/11;
- (ff) Fourth Circuit Judicial Conference 6/24/11;
- (gg) SC Bar Sporting Clays CLE: Ethics with the Judges 4/14/11.

Mr. Richardson reported that he has taught the following law-related courses:

I taught the following classes:

- (a) Family Business Law, USC School of Law, February 29, 2016, discussing minority shareholder oppression litigation and resolution strategies;
- (b) Law Practice Seminar, USC School of Law, February 24, 2013, February 25, 2014, February 23, 2015, and February 29, 2016, discussing plaintiff's civil trial practice;
- (c) Advanced Family Law, USC School of Law, on February 18, 2015, discussing litigation;
- (d) Father and Sons in the Law: What we have learned, Charleston School of Law, Professionalism Lecture Series, September 1, 2011.

I presented at the following continuing legal and judicial education programs:

- (a) The Importance of Access to Justice, Legal Services Corporation Board, Charleston, SC, January 29, 2016;
- (b) Access to Justice for All, SC State Judicial Conference, Columbia, SC, August 20, 2015;

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- (c) More Light! Protecting Public Housing Participants through Utility Allowance Litigation” for SCALJC, Columbia, SC, November 21, 2014;
- (d) Civil Practice Update, CLE in Columbia, SC, June 27, 2014 and July 11, 2014;
- (e) Truthiness: Justice at Stake, Auto Torts Seminar, Atlanta, GA, December 1, 2012;
- (f) Guns Rights and Laws CLE, USC School of Law, September 9, 2010;
- (g) Discovery Issues and Techniques, SC Bar CLE Seminar on Discovery: Problems & Solutions, Columbia, SC, May 14, 2010;
- (h) Candor Towards the Tribunal, Federal Bar Association 2009 Ethics CLE and Annual Meeting, Greenville, SC, September 17, 2009;
- (i) Co-Moderator, Should the South Carolina Constitution Support a Stronger Executive?, Symposium: State Constitutional Reform in the New South, Charleston School of Law, January 16, 2009;
- (j) Moderator, Exploring Bans on Illegal Immigrant Admission to State Colleges & Universities, Symposium: State Constitutional Reform in the New South, Charleston School of Law, January 16, 2009;
- (k) Election Protection Strategies, NAACP Faith Community Summit, October 23, 2008;
- (l) Statutory Changes to Joint and Several Liability, SCTL Convention, August 3, 2007;
- (m) No-Injury Class Actions are Coming to South Carolina, SC State Circuit Judges Conference, May 17, 2007;
- (n) No-Injury Class Actions: Frontier or Futile?, RPWB Co-Counsel Seminar, April 27, 2007;
- (o) No-Injury Class Actions: Frontier or Futile?, SCTL Convention, August 3, 2007;
- (p) Is Joint and Several Becoming Blame Everybody? SCTL Convention, August 3, 2006;
- (q) Overview of the Federal Legal System, FBA Summer Clerks Program, 2006, 2007, and 2008;
- (r) 2005 Legislative Changes to Joint and Several Liability in South Carolina, Judges Meeting, U.S. District Court for the District of South Carolina, May 12, 2006;

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- (s) What it Means to be a Trial Lawyer, SCTLA Student Chapter, USC School of Law, October 27, 2005;
- (t) Moderator, Fourth Annual Federal Practice in the District of South Carolina, September 9, 2005;
- (u) All Aboard, The Train is Leaving: Electronic Case Filing is Mandatory in the District of South Carolina, SCTLA Convention, August 5, 2005.

Mr. Richardson reported that he has published the following:

- (a) SC Damages (SC Bar 3d ed. expected 2017), Contributing Co-Author;
- (b) Doing Business in South Carolina (Lex Mundi Guide 2012), Contributing Co-Author;
- (c) SC Damages (SC Bar 2d ed. 2009), Contributing Co-Author;
- (d) 2005 Legislative Changes to the South Carolina Civil Justice System, SCTLA Bulletin (Summer 2005), Author;
- (e) The Tort of Unauthorized Pelvic Exams, Trial (Oct. 2004), Co-Author;
- (f) Secret Settlements: Reports of Their Demise Are Premature, 15 SC Law. 29 (May 2004), Co-Author;
- (g) SC Damages (SC Bar 2004), Contributing Co-Author.

(4) Character:

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

The Commission also noted that Mr. Richardson 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.

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- (5) Reputation:
Mr. Richardson reported that his rating by a legal rating organization, Super Lawyers, is Top Rated Civil Litigation Attorney in Columbia, SC.
Mr. Richardson reported that his rating by a legal rating organization, Best Lawyers, is 2017 & 2015 Lawyer of the Year in Appellate Practice.
Mr. Richardson reported that his rating by a legal rating organization, Martindale-Hubbell, is Distinguished Peer Rated for High Professional Achievement.
Mr. Richardson reported that his rating by a legal rating organization, Chambers, is Notable Practitioner in Band 1 law firm for Litigation: General Commercial.

Mr. Richardson reported that he has held the following public office:
South Carolina State University Board of Trustees, elected by the General Assembly, 2009-12. I timely filed all reports with the State Ethics Commission.

- (6) Physical Health:
Mr. Richardson appears to be physically capable of performing the duties of the office he seeks.
- (7) Mental Stability:
Mr. Richardson appears to be mentally capable of performing the duties of the office he seeks.
- (8) Experience:
Mr. Richardson was admitted to the South Carolina Bar in 1998.

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

- (a) My legal career really began while in law school working as a law clerk for Chairman Jim Harrison on the House Judiciary Committee for two legislative sessions. That exposure to research, drafting, and committee work of the General Assembly gave me an understanding of the appropriate roles and separation of powers among the three branches of government.

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- (b) Right after law school, I began as law clerk in the state appellate courts for then-Judge Kaye G. Hearn on the South Carolina Court of Appeals, reading briefs and records, researching and writing bench memos and draft opinions, and participating in deliberations about the outcome and reasoning of opinions in a variety of criminal, family, and civil law appeals.
- (c) After a state appellate court clerkship, I served as law clerk on the federal trial court for U.S. District Judge P. Michael Duffy in Charleston. In that capacity, I worked on the full range of federal and state law issues filed or removed to federal court, including a variety of criminal and civil cases and appeals.
- (d) Following my clerkship with the House Judiciary Committee and two judicial clerkships, I started practicing law at the same firm with which I currently practice: Wyche, PA (formerly known as Wyche, Burgess, Freeman & Parham, PA).

My practice has been a broad array of legal matters for many different types of clients. I have represented the State of South Carolina and political subdivisions; large successful companies like Hewlett Packard, one of the largest IT and Fortune 50 companies, and Leviton Manufacturing, the largest privately held electrical wiring company in North America; small businesses like a local pediatric practice, a barbecue restaurant, and a third-generation asphalt paving company started and still operating in South Carolina; and individuals from the top businessmen in South Carolina to the poorest families in rural South Carolina. I have also participated in wide variety of cases involving business and commercial law, consumer protection, voting rights and election protests, Freedom of Information Act, real estate law, copyright infringement, insurance bad faith, employment law, securities law, medical malpractice, personal injury, and products liability; and my experience has been at almost all levels of Municipal and Magistrate Courts, Family Courts, Circuit Courts, appellate courts, and the federal courts, and it includes jury trials, bench trials, preliminary motions and injunctions, dispositive

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motions, class action certification determinations, mediations, arbitrations, and appeals.

Mr. Richardson reported the frequency of his court appearances during the past five years as follows:

- (a) Federal: Every other month;
- (b) State: Monthly.

Mr. Richardson reported the percentage of his practice involving civil, criminal, and domestic matters during the past five years as follows:

- (a) Civil: 85%;
- (b) Criminal: 3%;
- (c) Domestic: 2%;
- (d) Other: 10%.

Mr. Richardson reported the percentage of his practice in trial court during the past five years as follows:

- (a) Jury: 35%;
- (b) Non-jury: 65%.

Mr. Richardson provided that he most often served as chief counsel or sole counsel.

The following is Mr. Richardson's account of his five most significant litigated matters:

- (a) Long Family Associates, L.P. et al. v. Charles P. Darby, III, et al. No. 2012-CP-10-03663 (S.C. Cir. Ct. filed Jun. 6, 2012). This was a minority shareholder suit involving Kiawah Development Partners, one of South Carolina's largest privately held companies, which had multiple entities organized in multiple states with operations and assets in multiple countries and during the time the world was watching while it hosted the PGA Tour Championship. In only eighteen months, we reached full resolution with hard-fought litigation that was conducted in a manner that both preserved the full value of the going concern and assets and provided all owners with fair value for their ownership interests.
- (b) In re Elec. Receptacle Products Liab. Litig., MDL No. 1595 (J.P.M.L. filed Dec. 31, 2003); Cramer, et al. v. Leviton

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Mfg. Co., Inc., No. 2003-CP-07-01648 (S.C. Cir. Ct. filed Aug. 4, 2003); Richey, et al. v. Leviton Mfg. Co., Inc., No. 2004-CP-40-02738 (S.C. Cir. Ct. filed Jun. 4, 2004). I represented Leviton Manufacturing, a one hundred-year-old company that is the largest privately held electrical wiring company in North America, against products liability claims that could have threatened the company's existence. After removal to federal court and consolidation through the Judicial Panel on Multi-district Litigation, the case was remanded to Judge Early, who granted the motion to dismiss, and then was dismissed on appeal.

- (c) State of South Carolina v. LendingTree LLC, Nos. 2008-CP-02-1529, 2008-CP-04-3021, 2008-CP-07-3458, 2008-CP-09-0136, 2008-CP-10-5451, 2009-CP-29-0780, 2008-CP-32-3841, 2008-CP-40-6714, 2008-CP-42-4666, 2009-CP-43-1240, 2008-CP-46-3450 (consolidated by S.C. Sup. Ct. Aug. 31, 2009); State of South Carolina v. LendingTree LLC, No. 9:08-cv-03505-HFF (D.S.C. filed Oct. 15, 2008). I was lead counsel representing the State of South Carolina and all sixteen solicitors against an online mortgage broker for civil violations of the South Carolina Mortgage Broker's Act.
- (d) Michelle H. et al. v. Haley et al., No. 2:15-cv-00134-RMG (D.S.C. filed Jan. 12, 2015). I represent a class of all foster care children in South Carolina for systemic Constitutional and statutory violations for their health and protection.
- (e) Colleton County Council v. McConnell et al., 201 F. Supp. 2d 618 (D.S.C. 2002). I represented Colleton County as the lead plaintiff in redistricting litigation to ensure at least one elected representative had a majority of voters from Colleton County because the proposed legislative plans could not be passed into law and Colleton County would otherwise have had five different House members, three different Senators, and two Congressional members. I later used this experience to avoid unnecessary redistricting litigation against the State.

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The following is Mr. Richardson's account of five civil appeals he has personally handled:

- (a) Cramer v. Leviton Mfg. Co, Inc., No. 2003-CP-07-1648 (S.C. Ct. App. dismissed Feb. 19, 2008).
- (b) Jamison v. Morris, 385 S.C. 215, 684 S.E.2d 168 (2009). Wallace Lightsey argued this appeal.
- (c) State of South Carolina v. LendingTree LLC, Nos. 09-01704 to 09-01713 (4th Cir. dismissed Aug. 31, 2009).
- (d) SC Green Party v. SC Election Commission, 612 F.3d 752 (4th Cir. 2010).
- (e) Ginn-LA University Club Ltd, LLLP v. Amelia Capital III, LLC, 2013 WL 8482299 (S.C. Ct. App. 2013).

Mr. Richardson reported that he has not personally handled any criminal appeals.

Mr. Richardson further reported the following regarding an unsuccessful candidacy:

I was an unsuccessful candidate for South Carolina Attorney General in 2010.

- (9) Judicial Temperament:
The Commission believes that Mr. Richardson's temperament would be excellent.
- (10) Miscellaneous:
The Lowcountry Citizens Committee on Judicial Qualifications found Mr. Richardson to be "Well Qualified" in the evaluative criteria of ethical fitness, professional and academic ability, character, reputation, experience, and judicial temperament, and "Qualified" in the remaining evaluative criteria of constitutional qualifications, physical health, and mental stability. The Citizens Committee noted that "Mr. Richardson has broad experience, but has less experience in Criminal and Family Court." The Committee continued, saying that Mr. Richardson "is bright and has a good demeanor. He is high energy and obviously very capable." The Committee believes Mr. Richardson is an outstanding candidate for Justice of the South Carolina Supreme Court.

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Mr. Richardson is married to Beth Burke Richardson. He has three children.

Mr. Richardson reported that he was a member of the following Bar associations and professional associations:

- (a) SC Access to Justice Commission, Chair 2014-17
- (b) Fourth Circuit Judicial Conference, Permanent Member
- (c) Federal Bar Association, SC Chapter President 2004-05
- (d) SC Association for Justice, President 2012-13
- (e) American Bar Association
- (f) American Bar Association Foundation, Fellow
- (g) SC Bar
- (h) Richland County Bar Association, Bench-Bar Liaison Committee 2007-16
- (i) John Belton O'Neill Inn of Court, Columbia

Mr. Richardson provided that he was a member of the following civic, charitable, educational, social, or fraternal organizations:

- (a) Eagle Scout, Boy Scouts of America
- (b) SC Supreme Court Historical Society
- (c) SC Liberty Fellowship, Liberty Forward Class of 2009, Senior Advisor 2014
- (d) Matthew J. Perry Public Service Award, SC Association for Justice 2015
- (e) Greenville Business Magazine, 50 Most Influential in 2015
- (f) Trinity Episcopal Church, Columbia
- (g) DNC, Elected Member
- (h) Bacchus Society Wine Tasting
- (i) Assistant Baseball Coach, Trenholm Little League, 2011-16
- (j) Coach, YMCA Flag Football, 2014-16
- (k) Assistant Coach, YMCA Soccer, 2014
- (l) Assistant Coach, Church League Basketball, 2014-15

Mr. Richardson further reported:

My life experiences have always pointed me to a life serving the rule of law, and I have tried to do that. I was raised in the law by my father, Attorney Terry Richardson, and my grandfather, Chief Justice Bubba Ness. They are both giants in the legal community in South Carolina and set strong examples of hard work and love of the law. I studied and learned the law here in South Carolina, but while in law school, I was a victim

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of violent crime, who had to confront and testify against the criminal who pointed a double-barreled shotgun in my face. I went on to serve as Editor in Chief of the South Carolina Law Review, clerked for two judges, and was hired as one of the first USC Law graduates at Wyche, P.A., one of the most prestigious law firms in the State. At Wyche, I have had a balanced law practice, representing both plaintiffs and defendants and both suing and defending businesses and individuals in a lot of different types of cases and law.

My law practice and life lessons reinforce what my father and grandfather taught me: everyone must follow the law and deserves its protections, and we are all better off when judges stick to the language in the Constitution and statutes and decide only the issues presented in the case. They taught me judges must be tough and fair and that the rule of law is more important than anyone. I believe—from these lessons and my own practice representing many different types of clients from the biggest Fortune 50 IT companies to the State of South Carolina and her agencies and political subdivisions to small businesses that serve some of the best barbecue in the State to the biggest businessmen and poorest families in rural South Carolina—that justice can only be established for all through the conservative judicial philosophy of my grandfather: (1) fidelity to the law written in our Constitution, statutes, and prior case law, (2) decide only the legal issues presented in a case, and (3) limit any decision to what is required by the case and not reach beyond that. I believe judges also have the responsibility to write clearly for all people to know and understand the law and the reasons for decisions. Last, activism has no place in judging because we all need and benefit from the certainty and stability of established law, and changes to the Constitution and statutes should go through the democratic process.

- (11) Commission Members' Comments:
The Commission noted that Mr. Richardson possesses an extraordinary depth of knowledge of the law and its history.

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- (12) Conclusion:
The Commission found Mr. Richardson qualified, but not nominated for election to Supreme Court, Seat 5.

**Jeffery P. Bloom
Circuit Court, At-Large, Seat 1**

**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 60 years old and a resident of Columbia, 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 and the New York Bar in 2010.

- (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.

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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 continuing legal or judicial education during the past five years as follows:

- | | | |
|-----|------------------------------|-----------|
| (a) | SC Lawyer Mentoring Program | 4/23/15; |
| (b) | Reinventing How You Practice | 2/10/15; |
| (c) | Federal Criminal Practice | 10/30/14; |
| (d) | National Habeas Corpus | 8/14/14; |
| (e) | CJA Mini-Seminar | 5/2/14; |
| (f) | Federal Criminal Practice | 10/24/13; |
| (g) | CJA Mini-Seminar | 5/3/13; |
| (h) | Capital Case Litigation | 4/29/13; |
| (i) | Federal Criminal Practice | 10/20/11; |
| (j) | Multi-Track Seminar | 8/18/11; |
| (k) | CJA Mini-Seminar | 5/13/11; |
| (l) | Capital Case Litigation | 5/1/11; |
| (m) | Federal Criminal Practice | 5/28/10; |
| (n) | Capital Case Litigation | 8/12/10; |
| (o) | CJA Mini-Seminar | 5/7/10; |
| (p) | Sentencing Guidelines | 12/3/09; |
| (q) | Rich. Co. Ethics Seminar | 11/6/09; |
| (r) | Federal Criminal Practice | 10/29/09. |

Mr. Bloom reported that he has taught the following law-related courses:

- (a) Clinical Assistant Professor, Dept. of Neuropsychiatry and Behavioral Science, University of South Carolina School of Medicine, 1999 – 2012;
- (b) "Creating the Sentencing Argument," Federal Criminal Practice Seminar, Charleston, S.C., October 30, 2014;
- (c) "Entrapment as a Defense: All You Need to Know and Then Some," Federal Mini-Seminar, Columbia, S.C., May 3, 2013;

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- (d) “Ethical Issues in Complex Litigation and Mental Health”, Capital Case Litigation Initiative, Litchfield Beach, S.C., May 2, 2013;
- (e) “Capital Pre-Trial Preparation: A Case Study”, Capital Case Litigation Initiative, Litchfield Beach, S.C., May 2011;
- (f) 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;
- (g) “Legal and Practical Developments 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;
- (h) Adjunct Professor, USC College of Criminal Justice, 1998-1999. Taught: Constitutional Law; and American Criminal Court System;
- (i) Numerous other CLE’s, seminars, and lectures, from 1990 – present.

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 any legal rating organization.

Mr. Bloom reported that he has held the following public offices:

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All offices below were appointed. Reports were timely filed with State Ethics Comm., and I was never subject to a penalty.

- (a) Commission Member, S.C. Commission 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) 1985-1992 – Horry County Public Defender Office, Conway, S.C. Began as an Assistant Public Defender. Served as Chief Public Defender 1988-1992;
- (d) 1992-1999 – Richland County Public Defender Office, Columbia, S.C. Served as Chief Public Defender;
- (e) 1999-Present. Private Practice. I have handled capital trial, appellate, and post-conviction cases, in both state and federal court. In February 2006, I began accepting appointments and assisting the Calhoun County Public Defender Office, St. Matthews, S.C., which continued through 2014. For the past four years, I have been associated in civil litigation cases, assisting in cases involving general negligence, personal injury, social security disability, and similar cases. And, I have also handled pro bono cases in civil court, including

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bankruptcy, landlord-tenant, magistrate court, workers compensation, and similar cases. I continue to donate more than 100 hours pro bono services annually.

Mr. Bloom reported the frequency of his court appearances during the past five years as follows:

- (a) Federal: more than 40 cases;
- (b) State: more than 100 cases.

Mr. Bloom reported the percentage of his practice involving civil, criminal, and domestic matters during the past five years as follows:

- (a) Civil: 40%;
- (b) Criminal: 60%;
- (c) Domestic: 0%;
- (d) Other: 0%.

Mr. Bloom reported the percentage of his practice in trial court during the past five years as follows:

- (a) Jury: 25%;
- (b) Non-jury: 75%.

Mr. Bloom provided that he most often served as sole or chief counsel.

The following is Mr. Bloom's account of his five most significant litigated matters:

- (a) State v. Barnes, 2015 S.C. LEXIS 235 (S.C. July 1, 2015).
Court affirmed Sixth Amendment right to counsel in a case also involving aspects of self-representation;
- (b) 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;
- (c) 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;

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- (d) 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);
- (e) Served as a Special Master in civil case of Hall v.
Murphree (Case No. 08-CP-09-101).

The following is Mr. Bloom's account of five civil appeals he
has personally handled:

- (a) Credell v. State, appeal dismissed. (appeal handled pro
bono); In federal court, appeal granted. Petitioner
released from prison based upon well-founded
evidence of innocence;
- (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, Court affirmed Circuit Court's grant of relief;
- (c) Von Dohlen v. State, 360 S.C. 598, 602 S.E.2d 738
(2004). See # 19 above;
- (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) Charging v. Ozmint, Mem. Op. 2006-MO-024 (S.C.,
July 3, 2006), affirming Circuit Court's grant of relief.

The following is Mr. Bloom's account of four criminal appeals
he has personally handled:

- (a) 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);
- (b) State v. Barnes, 2015 S.C. LEXIS 235 (S.C. July 1,
2015). See # 20 above;
- (c) State v. (Rita) Bixby, 373 S.C. 74, 644 S.E.2d 54
(2007). See # 20 above; and
- (d) State v. Cockerham, 294 S.C. 380, 365 S.E.2d 22
(1998). 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).

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Mr. Bloom further reported the following regarding unsuccessful candidacies:

Candidate for First Circuit Court Seat No. 1; August 2008 – February 2009.

Candidate for Circuit Court At-Large Seat No. 8; August 2009 – December 2009.

Candidate for Circuit Court At-Large Seat No. 10; August 2015 – November 2015.

(9) Judicial Temperament:

The Commission believes that Mr. Bloom's temperament would be excellent.

(10) Miscellaneous:

The Midlands Citizens Committee on Judicial Qualifications found Mr. Bloom to be "Well Qualified" in the evaluative criteria of ethical fitness, professional and academic ability, character, reputation, experience, and judicial temperament, and "Qualified" in the remaining evaluative criteria of constitutional qualifications, physical health, and mental stability. In comment, the Committee found Mr. Bloom to be "intellectually bright and has experience in both criminal and civil law. He displays an excellent temperament. His wide breadth of experience prepares him very well for this position. Mr. Bloom is motivated to serve his community for all the right reasons."

Mr. Bloom is married to Karen Newell Fryar. He has three 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) N.Y. Bar;
- (d) Federal Bar;
- (e) S.C. Assn. of Criminal Defense Lawyers;
- (f) Calhoun County Bar;
- (g) Richland County Bar;
- (h) American Society of Trial Consultants; and

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- (i) 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. Eagle Scout. Have received the following honors: National President's Scoutmaster Award of Merit; Scouter's Key; Scouter's Training Award; Silver Beaver recipient; and Vigil Honor;
- (b) Awarded Pro Bono Attorney of the Year by the SC Bar (1/26/06) for 2005;
- (c) Asst. Clinical Professor of Neuropsychiatry and Behavioral Science, USC School of Medicine, 1999-2012. (serve pro bono);
- (d) 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 SC 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 in years past with the late-Hon. Marc Westbrook.
- (d) Victim Outreach training, along with Restorative Justice training, as noted above, has sensitized me to the needs of victims and victims' families.

(11) Commission Members' Comments:

The Commission commented that Mr. Bloom was an impressive candidate with extensive trial experience, including death penalty cases.

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- (12) Conclusion:
The Commission found Mr. Bloom qualified, but not nominated for election to Circuit Court, At-Large, Seat 1.

**William Vickery (Vick) Meetze
Circuit Court, At-Large, Seat 1**

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

- (1) Constitutional Qualifications:
Based on the Commission's investigation, Mr. Meetze meets the qualifications prescribed by law for judicial service as a Circuit Court judge.

Mr. Meetze was born in 1968. He is 48 years old and a resident of Marion, South Carolina. Mr. Meetze 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. Meetze.

Mr. Meetze 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. Meetze reported that he has not made any campaign expenditures.

Mr. Meetze 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.

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Mr. Meetze 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. Meetze to be intelligent and knowledgeable. His performance on the Commission's practice and procedure questions met expectations.

Mr. Meetze described his continuing legal or judicial education during the past five years as follows:

<u>Conference/CLE Name</u>		<u>Date(s)</u>
(a)	E-Discovery Essentials & Trends for 2016	07/15/16
(b)	2016 SC Tort Law Update	07/12/16
(c)	Public Defender Conference	09/21/15 - 09/23/15
(d)	Public Defender Conference	09/22/14 - 09/24/14
(e)	Public Defender Conference	09/23/13 - 09/25/13
(f)	Capital Case Litigation Initiative	04/30/12 - 05/02/12
(g)	Public Defender Conference	09/26/11 - 09/28/11
(h)	Capital Case Litigation Phase II	05/01/11 - 05/03/11

Mr. Meetze reported that he has taught the following law-related course:

- (a) I have taught the law school at Palmetto Boys State each of the past fifteen years

Mr. Meetze reported that he has not published any books or articles.

(4) Character:

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

The Commission also noted that Mr. Meetze 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.

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- (5) Reputation:
Mr. Meetze reported that he does not have a rating by a legal rating organization.
- (6) Physical Health:
Mr. Meetze appears to be physically capable of performing the duties of the office he seeks.
- (7) Mental Stability:
Mr. Meetze appears to be mentally capable of performing the duties of the office he seeks.
- (8) Experience:
Mr. Meetze was admitted to the South Carolina Bar in 1999.

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

- (a) Judicial Law Clerk for the Honorable James E. Brogdon, Jr.

During the year that I clerked for Judge Brogdon, he was Chief Administrative Judge in both the Twelfth Judicial Circuit and the Third Judicial Circuit. I was able to research many issues involving both General Sessions and Common Pleas. I was able to see many trials from each branch. Also, Judge Brogdon was assigned two complex litigation civil cases while I clerked for him and that provided valuable experience in dealing with pre-trial matters such as discovery issues and summary judgment motions.

- (b) Assistant Solicitor Sixteenth Judicial Circuit
I prosecuted a variety of criminal cases for just under three years. I handled both felony and misdemeanor cases. Began trying cases early on and served as lead attorney from the start.

- (c) Assistant Public Defender Sixteenth Judicial Circuit, York County

I began my career as a criminal defense lawyer in June of 2002. I worked in that office for a little more than four years. In that job I represented criminal defendants charged with all manner of offenses from misdemeanors

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to murder cases. I served as lead counsel in many cases and I also helped other lawyers with their cases when necessary. During my time in the Sixteenth Judicial Circuit Public defender Office, we were fortunate to have many experienced attorneys to work with and gain experience from.

- (d) Assistant Public Defender Twelfth Judicial Circuit, Florence County

My job responsibilities were the same in the Twelfth Judicial Circuit as they had been in the Sixteenth Judicial Circuit.

- (e) Assistant Public Defender Twelfth Judicial Circuit, Florence & Marion County

In the fall of 2011 my responsibilities expanded to where I worked as a public defender in both counties of the Twelfth Judicial Circuit. That meant more cases, more trials and more time in court in general. It was at that time that was appointed lead counsel on a death penalty case.

- (f) Deputy Public Defender for the Twelfth Judicial Circuit
In August of 2014 I was promoted to Deputy Public Defender for the Twelfth Judicial Circuit. I still have the same kind of case load but have also taken on some administrative duties and working with and advising younger attorneys in our office

Mr. Meetze reported the frequency of his court appearances during the past five years as follows:

- (a) federal: I have not appeared in Federal Court any in the past five years.
(b) state: Every term of General Session Court for the Twelfth Judicial Circuit

Mr. Meetze 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%
(d) other: 0%

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Mr. Meetze reported the percentage of his practice in trial court during the past five years as follows:

- (a) jury: 10%
- (b) non-jury: 90%

Mr. Meetze provided that he most often served as sole counsel.

The following is Mr. Meetze's account of his five most significant litigated matters:

- (a) State v. Syllester D. Taylor (736 S.E. 2d 663, 2013): I handled this case at the trial level. It was trial in absence where I preserved all motions and eventually the conviction was reversed by the Court of Appeals. (694 S.E. 2d 60, 2010) The Supreme Court subsequently reversed the court of appeals in the above referenced site. However, even though Mr. Taylor eventually lost his appeal in the Supreme Court by a 3-2 decision, this case is an example of our legal system at work and even though Mr. Taylor was absent from his trial he was represented effectively and was not denied any opportunity or due process of law in spite of his absence.
- (b) State v. Tavario Brunson: This was a very high profile case in Florence County that I tried along with another attorney. The evidence against Mr. Brunson was quite overwhelming to include a recorded confession and a positive DNA match. Mr. Brunson was convicted of murder and that result was never really in question. I believe this is an important case because it is an example of our Constitution at work. Mr. Brunson exercised his right to a Jury trial and even though the evidence was overwhelming he was provided an excellent defense and to this day I believe it is one of the most well tried cases that I have had the opportunity to be involved.
- (c) State v. Montez Barker :This is a death penalty case in which I was appointed lead counsel. It is important by the nature of the offense and the fact that a man's life was literally on the line. Death Penalty cases take an

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extreme amount of work and dedication. You are working as a team with another attorney that has been appointed as second chair as well as fact and mitigation investigators not to mention my client's family was heavily involved as well. We were able to work hard and in the end were able to spare Mr. Barker's life by negotiating a plea for him where he would not face the death penalty. It takes a lot of work and relationship building to get a capital client to trust you enough to eventually agree that pleading guilty where you will be receiving a life sentence is in his best interest. That is what happened in this case and it is one of the most satisfying results I have ever had in a case.

- (d) State v. Ralph Thompson: This was a case in York County where Mr. Thompson was charged with several counts of forgery. It was a case where Mr. Thompson gave a statement to police regarding where he had gotten the check. It was the kind of story that on its face sounded made up and that is exactly what the police and prosecutors believed he was doing. However, through my investigation of Mr. Thompson's story and the presentation we made at trial, it became very clear that Mr. Thompson had been telling the truth and the jury returned a not guilty verdict within ten minutes. It is important because it just shows that sometimes when people can't seem to get anyone to believe you, if you stick to the truth things can work out and justice can be served.
- (e) State v. Calvin Jermaine Pompey Unpublished Opinion Number 2015-UP-280: This was a case where Mr. Pompey was charged with murder in a shooting outside of a night club in Marion, SC. There had been an altercation inside the club and Mr. Pompey and the people he came with left and went to their car. An individual from the club who was involved in the altercation ran towards Mr. Pompey's vehicle and appeared to be reaching under his shirt giving the appearance of reaching for a weapon. Mr. Pompey was sitting in the passenger seat but had not had the opportunity to close the door. The deceased began

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entering the car to attack Mr. Pompey. Mr. Pompey got a hand gun out of the glove compartment of the car and fired one shot, killing the individual. I made a motion to dismiss based under the Protection of Persons and Property Act. A hearing was held before The Honorable D. Craig Brown and Judge Brown found that Mr. Pompey was justified in his actions and that the state was barred from prosecuting him pursuant to the act. The state appealed and the Court of Appeals upheld Judge Brown's ruling in the above referenced unpublished opinion

Mr. Meetze reported he has not personally handled any civil or criminal appeals.

Mr. Meetze further reported the following regarding unsuccessful candidacies:

I have run for circuit court in 2012, 2014, and 2015.

(9) Judicial Temperament:

The Commission believes that Mr. Meetze's temperament would be excellent.

(10) Miscellaneous:

The Pee Dee Citizens Committee on Judicial Qualifications reported that Mr. Meetze is "Well Qualified" in the evaluative criteria of ethical fitness, professional, and academic ability, character, reputation, experience, and judicial temperament, and "Qualified" in the remaining evaluative criteria of constitutional qualifications, physical health, and mental stability. The Committee stated in summary: While Mr. Meetze's experience is heavily weighted in the criminal arena, no one with whom members of this committee spoke voiced any concerns about his ability to handle both criminal and civil matters in an exemplary fashion.

Mr. Meetze is married to Anna Braddock Meetze.

Mr. Meetze reported that he was a member of the following Bar associations and professional associations:

(a) South Carolina Bar;

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- (b) The Florence County Bar Association;
- (c) Public Defender Association-PDA Board member from 2014-present.

Mr. Meetze provided that he was a member of the following civic, charitable, educational, social, or fraternal organization:

- (a) Palmetto Boys State Staff – Dean of the Law School and Operations and Programming Director

Mr. Meetze further reported:

I have been in public service my entire legal career. My career began as a judicial law clerk and since that experience it has been my career goal to become a Circuit Court Judge. I have served our judicial system as both a prosecutor and defense attorney and have a wealth of trial experience. I also have life experience thanks to great influences from my family, friends and my thirty plus year involvement with Palmetto Boys State that has instilled in me the patience, knowledge, work ethic and sense of fairness which lends itself to effective judicial service. I have been honored to dedicate my life to public service and I hope to be able to one day continue that service in the capacity of a Circuit Court Judge.

- (11) Commission Members' Comments:
The Commission noted that Mr. Meetze has significant experience with criminal law.
- (12) Conclusion:
The Commission found Mr. Meetze qualified, but not nominated for election to Circuit Court, At-Large, Seat 1.

**The Honorable Bentley D. Price
Circuit Court, At-Large, Seat 1**

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

- (1) Constitutional Qualifications:
Based on the Commission's investigation, Judge Price meets the qualifications prescribed by law for judicial service as a Circuit Court judge.

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Judge Price was born in 1976. He is 40 years old and a resident of Charleston, South Carolina. Judge Price 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 2002.

(2) Ethical Fitness:

The Commission's investigation did not reveal any evidence of unethical conduct by Judge Price.

Judge Price 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 Price 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 Price 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 Price to be intelligent and knowledgeable. His performance on the Commission's practice and procedure questions met expectations.

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

<u>Conference/CLE Name</u>	<u>Date(s)</u>
(a) SCJA Judicial Conference	09/09/09;
(b) Nuts and Bolts of DUI Prosecution	06/16/10;
(c) SCJA Judicial Conference	09/08/10;
(d) SC Bar Sporting Clays	04/14/11;
(e) SCJA Judicial Conference	09/07/11;
(f) SC Bar Sporting Clays	10/13/11;

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(g)	SC Bar Sport Clays	04/12/12;
(h)	SCJA Judicial Conference	09/05/12;
(i)	SC Bar Sporting Clays	10/18/12;
(j)	SC Bar Sporting Clays	04/25/13;
(k)	SCJA Judicial Conference	09/03/14;
(l)	Ethics in 18 Holes	04/22/14;
(m)	SCJA Judicial Conference	09/03/14;
(n)	Tips from Bench and Bar	02/26/15;
(o)	Anatomy of a Trial	05/22/15;
(p)	SCJA Judicial Conference	09/09/15;
(q)	Birdies Bogies and Pars	04/22/16.

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

- (a) I have lectured at the College of Charleston on the topic of the legal and judicial field and alternative professions that relate to a legal degree.
- (b) I have lectured at the Charleston School of Law on the topic of the stresses of being a judge and criminal defense attorney.
- (c) I have lectured at The Citadel's graduate school on the topic of "How the Solicitor's Office really works."

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

(4) Character:

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

The Commission also noted that Judge Price 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 Price reported that he is not rated by any legal rating organization.

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- (6) Physical Health:
Judge Price appears to be physically capable of performing the duties of the office he seeks.
- (7) Mental Stability:
Judge Price appears to be mentally capable of performing the duties of the office he seeks.
- (8) Experience:
Judge Price was admitted to the South Carolina Bar in 2002.

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

- (a) Assistant Solicitor, Ninth Judicial Circuit 2002-2004. I prosecuted major violent crimes, white collar crimes, misdemeanors, and drug crimes. I was also the liaison to the U.S. Attorney's Office for gun related crimes.
- (b) Query, Sautter, Price and Forsythe, 2004-2013. The firm is a general practice firm that handles complex criminal and civil cases with an entire sector also dedicated to domestic cases. I was the partner that oversaw the criminal and civil sector of the practice focusing on state court, federal court and magistrate courts. I worked hand in hand with the partners on all civil matters and we emphasized plaintiff's work in personal injury and both plaintiff and defense work in business litigation.
- (c) Bentley Price Law Firm, LLC, 2013-Present. I am a solo practitioner continuing to handle all criminal matters and have continued in personal injury cases on the plaintiff's side only.

Judge Price reported the frequency of his court appearances during the past five years as follows:

- (a) Federal: monthly;
- (b) State: weekly.

Judge Price reported the percentage of his practice involving civil, criminal, and domestic matters during the past five years as follows:

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- (a) Civil: 25%;
- (b) Criminal: 75%;
- (c) Domestic: 0%;
- (d) Other: 0%.

Judge Price reported the percentage of his practice in trial court during the past five years as follows:

- (a) Jury: 99%;
- (b) Non-jury: 1%.

Judge Price provided that he most often served as sole counsel.

The following is Judge Price's account of his five most significant litigated matters:

- (a) State v. Antoine Goodwin – In this trial in Charleston County Court of General Sessions, I was an assistant solicitor prosecuting Mr. Goodwin for murder. This case had a number of unique aspects. The case involved eye-witness testimony that Mr. Goodwin was the shooter and we had a jury viewing at the scene of the crime to determine the angle of the witnesses' view. We were also successful in subpoenaing federal grand jury records in which the crime was discussed. There was a contempt hearing at trial and a witness changed his testimony mid-trial thus allowing us to have him declared a hostile witness and use his testimony to our advantage. Mr. Goodwin was found guilty and sentenced to life in prison.
- (b) State v. Jabez Batiste – The Charleston County Court of General Sessions appointed our managing partner, who had no criminal trial experience, to represent Mr. Batiste, who was charged with two counts of murder. My partner asked me to participate as lead counsel at trial while he sat second chair. At trial, I was able to get the lead detective to admit that law enforcement felt that the co-defendant was the shooter and therefore the most culpable. The State was then forced to proceed under the theory that the hand of one is the hand of all and obtained convictions.
- (c) State v. Donal Bryant – In this case I was retained by Mr. Bryant to defend him on his charge of Criminal

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Domestic Violence of a High and Aggravated Nature alleged by his Russian born wife. Mr. Bryant was seeking a divorce at the time the charges were filed and maintained his innocence throughout my representation. He always maintained his position that the alleged injuries were self inflicted. Upon continued research in preparation for trial it became evident that the victim's motive for maintaining her allegations was that she could circumvent the marriage requirement imposed by immigration laws. The trial was riddled with complicated legal issues involving admissibility of evidence and witnesses. The trial went to the jury and Mr. Bryant was convicted of Simple Assault and sentenced to time served.

- (d) Knowles v. Crawford – In this civil case Mr. Crawford shot Mr. Knowles in the abdomen from his boat and later utilized the Castle Doctrine as a defense to criminal liability. The Solicitor's Office reviewed SLED's finding and refused to prosecute. I brought a civil action for negligence under the theory that Mr. Crawford maintained throughout the case that it was an accident and that he was attempting to un-cock the hammer when it discharged. Since the shooter claimed the shooting was accidental, the civil defense section of the Castle Doctrine statute was inapplicable. Therefore we were able to bring a suit for negligence and were successful.
- (e) United States of America v. Wendy Moore - This was a federal trial where the U.S. Attorney's Office was alleging that my client, Wendy Moore, had contracted with her ex-husband to have her boyfriend's soon to be ex-wife murdered. The allegations were that Ms. Moore contacted her ex-husband, who is a convicted murder/arsonist, and asked him to travel to Charleston to kill Nancy Cannon. He agreed and brought an accomplice but when they arrived in Charleston and received five thousand dollars they wired the money home and became paranoid that their girl friends would spend the money so they immediately traveled back to their home state of Kentucky. The accomplice then returned to Charleston to commit the murder but was subsequently arrested on drug charges and attempted to

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get immunity by confessing to the murder-for-hire. The two-week trial was riddled with complex legal issues and factual posturing. Ms. Moore was convicted on all counts and is awaiting sentencing.

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

(9) Judicial Temperament:

The Commission believes that Judge Price's temperament would be excellent.

(10) Miscellaneous:

The Lowcountry Citizens Committee on Judicial Qualifications reported Judge Price to be "Well Qualified" in the evaluative criteria of ethical fitness, professional and academic ability, character, reputation, experience, and judicial temperament, and "Qualified" in the remaining evaluative criteria of constitutional qualifications, physical health, and mental stability.

Judge Price is married to Melissa Price. He has two children.

Judge Price reported that he was a member of the following Bar associations and professional associations:

- (a) Charleston County Bar;
- (b) Berkeley County Bar;
- (c) Dorchester County Bar;
- (d) South Carolina Bar;
- (e) Summary Court Judge's Association.

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

- (a) James Island Yacht Club - Resigned membership in 2012.

(11) Commission Members' Comments:

The Commission recognizes Judge Price's service as a Municipal Court judge.

(12) Conclusion:

The Commission found Judge Price qualified, but not nominated for election to Circuit Court, At-Large, Seat 1.

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**Robert L. Reibold
Circuit Court, At-Large, Seat 1**

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

(1) Constitutional Qualifications:

Based on the Commission's investigation, Mr. Reibold meets the qualifications prescribed by law for judicial service as a Circuit Court judge.

Mr. Reibold was born in 1970. He is 46 years old and a resident of Columbia, South Carolina. Mr. Reibold 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.

(2) Ethical Fitness:

The Commission's investigation did not reveal any evidence of unethical conduct by Mr. Reibold.

Mr. Reibold 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. Reibold reported that he has not made any campaign expenditures.

Mr. Reibold 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. Reibold testified that he is aware of the Commission's 48-hour rule regarding the formal and informal release of the Screening Report.

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(3) Professional and Academic Ability:

The Commission found Mr. Reibold to be intelligent and knowledgeable. His performance on the Commission's practice and procedure questions met expectations.

Mr. Reibold described his continuing legal or judicial education during the past five years as follows:

- | | | |
|-----|---|----------|
| (a) | Alternate Dispute Resolution | 01/11 |
| (b) | Annual Free Ethics Seminar | 11/04/11 |
| (c) | Dispute Resolution Section | 01/20/12 |
| (d) | Trial and Appellate Advocacy Section | 01/20/12 |
| (e) | Employment and Labor Law Section | 01/21/12 |
| (f) | DL -265 Lawyer Depression and Mental Disorders | 10/20/12 |
| (g) | Circuit Court Judicial Forum: Advanced | 10/26/12 |
| (h) | Annual Free Ethics CLE | 11/09/12 |
| (i) | Dispute Resolution Section | 01/24/13 |
| (j) | Employment and Labor Law Section | 01/25/13 |
| (k) | Trial & Appellate Advocacy Section Civil Law Update | 01/24/14 |
| (l) | Criminal Law Section (Part 2) | 01/24/14 |
| (m) | SC Circuit and Family Court Arbitrator | 05/05/14 |
| (n) | Emerging Mediation Trends | 01/22/15 |
| (o) | Employment and Labor Law | 01/23/15 |
| (p) | Criminal Law Update (Part 2) | 01/23/15 |
| (q) | Riley Institute - Straight Talk, Crime and Punishment | 07/21/15 |
| (r) | South Carolina Association of Justice Conference | 08/06/15 |
| (s) | Civil Law Update | 01/23/16 |
| (t) | Criminal Law Update | 01/23/16 |

Mr. Reibold reported that he has taught the following law-related courses:

- (a) I made a presentation as a speaker at the Automobile Torts CLE in the Fall of 2000; and
- (b) I made a presentation as a speaker at the Masters in Equity CLE in October of 2010.

Mr. Reibold reported that he has published the following:

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- (a) *The Unfair Trade Practices Act – Is It Time for a Change?* (South Carolina Lawyer, May 2013) (Author);
- (b) *South Carolina Equity: A Practitioner's Guide* (S.C. Bar CLE 2010) (Co-Author);
- (c) *Hidden Danger of Using Private Detectives* (South Carolina Lawyer, July 2005) (Author);
- (d) *Cutting the Fishing Trip Short: Protecting an Adjuster's Claim File* (South Carolina Lawyer, July/August 2000) (Author); and
- (e) *The Big Catch: An Adjuster's Claim File* (South Carolina Lawyer, July/August 2005) (Author).

(4) Character:

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

The Commission also noted that Mr. Reibold 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. Reibold reported that his rating by a legal rating organization, Martindale-Hubbell, is AV.

(6) Physical Health:

Mr. Reibold appears to be physically capable of performing the duties of the office he seeks.

(7) Mental Stability:

Mr. Reibold appears to be mentally capable of performing the duties of the office he seeks.

(8) Experience:

Mr. Reibold was admitted to the South Carolina Bar in 1995.

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

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- (a) 1996, law clerk to the Honorable J. Ernest Kinard, Jr.,
Judge of the Circuit Court
- (b) 1996-2000, associate at Swagart & Walker, P.A.
- (c) 2000-2002, Swagart, Walker & Reibold, P.A.
- (d) 2002-2005, Swagart, Walker, Martin & Reibold, P.A.
- (e) 2005-2008, Walker, Martin & Reibold, LLC
- (f) 2008 to the present, Walker & Reibold, LLC

My first legal position was as a judicial clerk for the Honorable Ernest J. Kinard, Jr. Following my clerkship, I entered private practice, where I have remained since. My practice is primarily litigation based.

Mr. Reibold reported the frequency of his court appearances during the past five years as follows:

- (a) Federal: 22;
- (b) State: 145-180;
- (c) Other: N/A.

In the past 5 years, I have handled approximately 22 cases in federal court. In the same time period, I have handled between 145 and 180 cases in South Carolina state courts. I entered court appearances in all of these matters. Not all of these cases required physical appearances before a court.

Mr. Reibold reported the percentage of his practice involving civil, criminal, and domestic matters during the past five years as follows:

- (a) Civil: 98%;
- (b) Criminal: 2%;
- (c) Domestic: N/A%;
- (d) Other: N/A%.

Mr. Reibold reported the percentage of his practice in trial court during the past five years as follows:

- (a) Jury: 97%;
- (b) Non-jury: 3%.

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Mr. Reibold provided that he served most often served as sole counsel or chief counsel. He further reported that he served as associate counsel in the remaining matters.

The following is Mr. Reibold's account of his five most significant litigated matters:

- (a) Michael Ritz v. Taylor Toyota. In this matter, my partner and I represented a Toyota dealership accused of charging documentation or procurement fees in violation of South Carolina law. Plaintiff represented a group or class of thousands of customers attempting to recover allegedly improper fees. The case took almost six years to reach trial, and was tried to a jury in Aiken County. Plaintiff sought a total judgment of approximately \$25,000,000. After a three day trial, the jury returned a verdict in favor of the defense.
- (b) Roberts v. LaConey, 375 S.C. 97, 650 S.E.2d 474 (2007). I sought permission to file an amicus brief in this case which was filed in the South Carolina Supreme Court's original jurisdiction. The case was decided in favor of the parties represented by my firm, and helped define what constitutes the unauthorized practice of law in the State of South Carolina;
- (c) Brown v. Stewart, 348 S.C. 33, 557 S.E.2d 626 (Ct.App. 2001). Among other things, this case involved the question of when a corporate shareholder may maintain a breach of fiduciary action against corporate board members or directors. I assisted in the trial of this case and argued the appeal, which helped to clarify an uncertain area of law in South Carolina.
- (d) Fournil v. Turbeville Insurance Agency. In this matter, I represented a small start-up company. The founder of the company had split off from a larger insurance agency, which became involved in litigation with my client. If the larger company's claims had been successful, the suit would crushed the new business. My clients were facing an adversary with much greater resources. To me this case is significant because its successful resolution was literally a question of the survival of my client.

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- (e) Butler v. Ford Motor Company, et al., 724 F.Supp.2d 575 (D.S.C. 2010). In this case, I represented a small tire company from Georgia who had been improperly sued in South Carolina. The case is significant to me because I was able to have the case relocated to a proper forum, and prevent what appeared to be forum shopping.

The following is Mr. Reibold's account of five civil appeals he has personally handled:

- (a) Brown v. Stewart, et al, November 19, 2001 (reported at 348 S.C. 33, 557 S.E.2d 676 (Ct.App. 2001) (brief and argument);
- (b) Hall v. Fedor, March 25, 2002 (reported at 349 S.C. 169, 561 S.E.2d 654 (Ct.App. 2002) (on brief);
- (c) OptimumPath, LLC v. Belkin, et al, patent appeal before the United States Court of Appeals for the Federal Circuit, May 7, 2012 (brief and oral argument);
- (d) Sign N Ryde v. Larry King Chevrolet, S.C. Court of Appeals, December 9, 2011 (brief and oral argument);
- (e) Diane Henderson v. Summerville Ford-Mercury, S.C. Supreme Court, September 11, 2013 (reported at 405 S.C. 440, 748 S.E.2d 221 (2013) (brief and oral argument).

Mr. Reibold reported that he has not personally handled any criminal appeals.

Mr. Reibold further reported the following regarding unsuccessful candidacies:

I have run for circuit court in 2011, 2012, 2014, and 2015.

- (9) Judicial Temperament:
The Commission believes that Mr. Reibold's temperament would be excellent.
- (10) Miscellaneous:
The Midlands Citizens Committee on Judicial Qualifications found Mr. Reibold to be "Well Qualified" in the evaluative criteria of ethical fitness, professional and academic ability, character, reputation, and judicial temperament, and "Qualified"

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in the remaining evaluative criteria of constitutional qualifications, physical health, mental stability, and experience. The Committee stated in summary, "Mr. Reibold is qualified, but more criminal law experience would be helpful."

Mr. Reibold is married to Shealy Boland Reibold. He has one child.

Mr. Reibold reported that he was a member of the following Bar associations and professional associations:

- (a) South Carolina Bar Association,
Member, House of Delegates 2008 to 2014
Member, Practice and Procedure Committee; and
- (b) Richland County Bar Association

Mr. Reibold provided that he was a member of the following civic, charitable, educational, social, or fraternal organizations:

- (a) Member, Board of Directors, Keep the Midlands Beautiful
Honored as Board Member of the Year for South Carolina Keep America Beautiful Affiliates in 2005
- (b) Appointed Member, City of Columbia Tree and Appearance Commission, 2007 to 2013;
- (c) Advisory Board Member, Salvation Army Command of the Midlands, 2013 to the present.

Mr. Reibold further reported:

I have been involved in community affairs for some time. Over the past 15 years, I have worked as a volunteer at public events, raised money for the American Cancer Society, and served as a board member for local non-profit organizations. I am also a member of the 2002 Leadership Columbia class. I was appointed by Columbia City Council to the Columbia Tree and Appearance Commission. I am an advisory board member for the Salvation Army of the Midlands. These activities demonstrate my commitment to public service.

I have also been active in promoting the legal profession. I have been twice elected to the House of Delegates for the South Carolina Bar Association. I am

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a member for the Practice and Procedure Committee of the South Carolina Bar Association. I have also authored a number of articles and co-authored a legal text published by the South Carolina Bar Association.

Service as a Circuit Court Judge is a natural outgrowth of this commitment service and the legal profession.

- (11) Commission Members' Comments:
The Commission commented that Mr. Reibold has tremendous civil experience and is known for a strong work ethic.
- (12) Conclusion:
The Commission found Mr. Reibold qualified, but not nominated for election to Circuit Court, At-Large, Seat 1.

Melissa M. Frazier
Family Court, At-Large, Seat 7

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

- (1) Constitutional Qualifications:
Based on the Commission's investigation, Ms. Frazier meets the qualifications prescribed by law for judicial service as a Family Court judge.
- Ms. Frazier was born in 1969. She is 47 years old and a resident of Little River, South Carolina. Ms. Frazier 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 1996. She was also admitted to the North Carolina Bar in 1998.
- (2) Ethical Fitness:
The Commission's investigation did not reveal any evidence of unethical conduct by Ms. Frazier.
- Ms. Frazier demonstrated an understanding of the Canons of Judicial Conduct and other ethical considerations important to

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judges, particularly in the areas of ex parte communications, acceptance of gifts and ordinary hospitality, and recusal.

Ms. Frazier reported that she has made \$165.90 in campaign expenditures for stationery, postage and note cards.

Ms. Frazier 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. Frazier 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. Frazier to be intelligent and knowledgeable. Her performance on the Commission's practice and procedure questions met expectations.

Ms. Frazier described her continuing legal or judicial education during the past five years as follows:

<u>Conference/CLE Name</u>	<u>Date(s)</u>
(a) Civility Among Lawyers	06/23/11;
(b) 2011 Hot Tips from the Coolest Domestic Law Practitioners	10/31/11;
(c) Horry County Bar, Family Court Seminar Procedural	12/08/11;
(d) What Every Lawyer Should Know	06/22/12;
(e) Family Court Seminar Procedural	12/12/12;
(f) Recent Developments in Ethics and Discipline	02/01/13
(g) The Family Law Symposium	04/19/13
(h) What Every Lawyer Should Know to Enjoy the Practice of Law	06/21/13
(i) Family Court Procedure and Substantive Law	12/12/13
(j) 2014 Hot Tips from the Coolest Domestic Law Practitioners	09/26/14
(k) Horry County Bar Family Court CLE	02/11/15

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(l) Horry County Bar Family Court CLE 02/12/16

Ms. Frazier reported that she has taught the following law-related courses:

- (a) December 2002, Horry County Bar Procedure and Substantive Family Law Seminar for family court attorneys and paralegals – spoke on the topic of Name Changes;
- (b) December 2005, Horry County Bar Procedure and Substantive Family Law Seminar – spoke on the topic of Contested Termination of Parental Rights;
- (c) December 2006, Horry County Bar Procedural and Substantive Law Seminar – spoke on Adult Name Changes;
- (d) October 2007, Horry County Bar Procedural and Substantive Law Seminar – spoke on Mediation;
- (e) December 2008, Horry County Bar Procedural and Substantive Law Seminar – spoke on Visitation Schedules;
- (f) 2009, S.C. Bar, Family Law Seminar – spoke on the issue of Visitation;
- (g) December 2009, Horry County Bar Procedural and Substantive Law Seminar – spoke on Introduction of Exhibits;
- (h) October 29, 2010, Horry County Bar Guardian ad Litem Training Seminar – spoke on the topic of Interviewing a Parent;
- (i) December 2010, Horry County Bar Procedural and Substantive Law Seminar – spoke on Preparation for Mediation on Children’s Issues;
- (j) December 2011, Horry County Bar Procedural and Substantive Law Seminar – spoke on Mediation Etiquette;
- (k) December 2012, Horry County Bar Procedural and Substantive Law Seminar – spoke on Family Court Rule 14;
- (l) December 2013, Horry County Bar Procedural and Substantive Law Seminar – served as one of the coordinators and moderators of seminar;

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- (m) May 2015, Family Law Intensive Class sponsored by the Horry County Bar – spoke on the issue of Guardians ad Litem;
- (n) February 2015 and February 2016, Horry County Bar Procedural and Substantive Law Seminar – served as coordinator and moderator;

Ms. Frazier reported that she has not published any books or articles.

(4) Character:

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

The Commission also noted that Ms. Frazier 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. Frazier reported that her rating by a legal rating organization, Martindale-Hubbell, is Distinguished.

(6) Physical Health:

Ms. Frazier appears to be physically capable of performing the duties of the office she seeks.

(7) Mental Stability:

Ms. Frazier appears to be mentally capable of performing the duties of the office she seeks.

(8) Experience:

Ms. Frazier was admitted to the South Carolina Bar in 1996.

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

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- (a) Law Office of Walter J. Wylie, September 1996 –1999. Worked as an associate in the primary area of family law.
- (b) Wylie & Frazier, P.C., 1999 - March 2010. Became a junior partner, practicing in the area of family law.
- (c) Frazier Law Firm, P.C., March 2010 – Present. Opened my own law firm where I continue my family law practice.

Ms. Frazier reported the frequency of her court appearances during the past five years as follows:

- (a) federal: 0
- (b) state: Average of three times per week
- (c) Other: N/A

Ms. Frazier reported the percentage of her practice involving civil, criminal, and domestic matters during the past five years as follows:

- (a) civil: 0%
- (b) criminal: 0%
- (c) domestic: 99%
- (d) other: 1% Probate/wills

Ms. Frazier reported the percentage of her practice in trial court during the past five years as follows:

- (a) jury: 0%
- (b) non-jury: 100%

Ms. Frazier provided that she most often served as sole counsel.

The following is Ms. Frazier's account of her five most significant litigated matters:

- (a) Suzanne Gooch Castles vs. Robert Lee Castles, 2009-DR-26-3111. I represented the wife in a hotly contested case involving a common law marriage claim and equitable division of marital assets. The parties worked together in building an engineering firm and there was significant evidence substantiating the wife's common law marriage claim. We originally settled the matter in mediation, agreeing that a common law marriage existed and including continued employment for the

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wife for a period of years. However, prior to the approval of the agreement, the opposing party claimed that the wife repudiated the agreement and sought to set the agreement aside. Additionally, there was an issue of interpretation of some of the terms. We litigated these issues before the Family Court and I prevailed on enforcing the mediation agreement. Additionally, the Court addressed the interpretation of the language used in the agreement. This case was significant to me as a common law marriage can be difficult to sustain.

- (b) Patricia A. Hocker vs. Michael B. Hocker, 2003-DR-26-2504. This case involved the issue of alimony and attorneys fees. The husband had an affair with a woman who babysat for their minor children. Husband admitted to the affair, but claimed that his wife had condoned his misconduct when they attempted reconciliation. This was a long term marriage, with a large disparity in income. My client had been a stay at home mother throughout most of the marriage and she had not had the opportunity to pursue a career of her own. This case was significant to me as I was successful in proving that there was no condonation of the adultery and my client received a favorable award of alimony and attorneys fees. The amount of alimony and attorneys fees were appealed by husband and the decision was upheld.
- (c) Stephanie Allyson Militano-Catanzaro vs. Leonard Vincent Catanzaro, 2009-DR-26-1158. In this case, I represented the husband and successfully defended an alimony award. The parties had been married fifteen years and had three children together. After factoring in child support, the Court found that the wife's disposable income was greater than husband's disposable income. If alimony had been awarded, it would only serve to increase this disparity and would have caused significant financial distress for my client.
- (d) Diane C. Lewis vs. Braxton Edwin Lewis, III, 2000-DR-26-833. In this matter, I represented the wife in a divorce, custody, alimony and equitable division matter. The husband claimed that my client had committed adultery and my client denied any such relationship. While it was a fairly typical divorce action, I tried the

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case against a very seasoned attorney. I did not prevail on the issue of adultery, however, I gained significant experience and insight in the process.

- (e) Kenneth and Sara Gore vs. Lysie DePoalo, 2013-DR-26-2954 This was a contested termination of parental rights and step parent adoption. The mother and father had previously settled their custody/visitation case after extensive negotiation. After the Final Order was entered, mother moved to the west coast to pursue a bartending career. She made no effort to visit with her child nor did she maintain significant contact with the child for approximately one year. I filed an action to terminate her parental rights and requested a step-parent adoption. After hearing testimony and input from the guardian ad litem, the Court granted both the termination of parental rights and the step-parent adoption. This case was significant as it was a close fact situation and clearly rested on the credibility of the parties and witnesses. The guardian ad litem and the minor child's wishes were also crucial in this case.

The following is Ms. Frazier's account of the civil appeal she has personally handled:

- (a) Patricia A. Hocker vs. Michael B. Hocker, Unpublished Opinion No. 2006-UP-136, March 9, 2006, Court of Appeals of South Carolina.

Ms. Frazier reported that she has not personally handled any criminal appeals.

- (9) Judicial Temperament:
The Commission believes that Ms. Frazier's temperament would be excellent.
- (10) Miscellaneous:
The Pee Dee Citizens Committee on Judicial Qualifications found Ms. Frazier to be "Well Qualified" in the evaluative criteria of ethical fitness, professional and academic ability, character, reputation, experience, and judicial temperament, and

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“Qualified” in the remaining evaluative criteria of constitutional qualifications, physical health, and mental stability.

Ms. Frazier is married to David Todd Frazier. She has two children.

Ms. Frazier reported that she was a member of the following Bar associations and professional associations:

- (a) South Carolina Bar Association;
- (b) Horry County Bar Association, President – 2008, Vice President – 2007, Secretary – 2006, Treasurer – 2005
- (c) South Carolina Bar Family Law Section Council, Chairperson-Elect - 2016/17, Secretary – 2015/16;
- (d) Horry County Family Court Executive Advisory Committee;

Ms. Frazier provided that she was a member of the following civic, charitable, educational, social, or fraternal organizations:

- (a) Coastal Inn of Court Pupilage and Mentoring Organization, Master, Group Leader;
- (b) Coastal Women’s Law Society//Coastal Women’s Lawyer Association;

Ms. Frazier further reported:

I have been married to my husband for nineteen years and I have two teenage children. Like most people, divorce has impacted members of my family over the years. This has allowed me to experience both sides of the coin. I will carefully weigh all evidence that would come before me and treat litigants with the respect they deserve. I will strive to do what is best for children at all times. I believe that I can bring common sense, experience and compassion to this position.

(11) Commission Members’ Comments:

The Commission was impressed with Ms. Frazier and noted that she has an excellent reputation as a Family Court lawyer.

(12) Conclusion:

The Commission found Ms. Frazier qualified, but not nominated for election to Family Court, At-Large, Seat 7.

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**Kimaka Nichols-Graham
Family Court, At-Large, Seat 7**

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

(1) Constitutional Qualifications:

Based on the Commission's investigation, Ms. Kimaka Nichols-Graham meets the qualifications prescribed by law for judicial service as a Family Court judge.

Ms. Nichols-Graham was born in 1972. She is 44 years old and a resident of Greenville, South Carolina. Ms. Nichols-Graham 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 1998.

(2) Ethical Fitness:

The Commission's investigation did not reveal any evidence of unethical conduct by Ms. Nichols-Graham.

Ms. Nichols-Graham 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. Nichols-Graham reported that she has not made any campaign expenditures.

Ms. Nichols-Graham 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.

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Ms. Nichols-Graham 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. Nichols-Graham to be intelligent and knowledgeable. Her performance on the Commission's practice and procedure questions met expectations.

Ms. Nichols-Graham described her continuing legal or judicial education during the past five years as follows:

South Carolina Bar Convention (family and children's law)	1/22/2016
South Carolina Legal Services Statewide Conference	11/18/2015
ABA Lead Law 2015	10/23/2015
2015 South Carolina Public Defender Conference	9/21/2015
South Carolina Black Lawyers Association 13 th Annual Retreat	9/17/2015
Stress Management – Avoiding Unhealthy Consequences of Stress	8/31/2015
South Carolina Legal Services Statewide Conference	12/10/2014
South Carolina Black Lawyers Association Annual Retreat	9/19/2014
South Carolina Bar Education Law	8/8/2014
Using LinkedIn as a Professional & Organizational Tool Without Violating the Rules of Professional Conduct	4/24/2014
Social Security Disability 2014: From Administrative Proceedings to Federal Practice	3/28/2014
Greenville Bar Association Annual "Year End" CLE	2/14/2014
South Carolina Bar Foundation Greenville Grantee Gathering	12/10/2013
South Carolina Legal Services Statewide Conference	11/21/2013
South Carolina Black Lawyers Association Annual Retreat	9/26/2013
Ethical Lessons from the Bench	9/25/2013
Greenville County Bar Year End CLE	2/15/2013

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SC Bar Foundation Grantee Gathering	12/1/2012
SCLS Seminar for DSS/Child Support Enforcement Attorneys	11/2/2012
South Carolina Black Lawyers Association Annual Retreat	9/27/2012
SCALJ Connecting Students with Tools for School	3/9/2012
Managing Ethical Issues for Day to Day Practice	12/6/2011
South Carolina Legal Services Statewide Meeting	11/8/2011
South Carolina Black Lawyers Association Annual Retreat	10/4/2011
Children Coping with Divorce Trans-parenting for Professionals	9/30/2011
Judicial Ethics for Lawyers	8/17/2011
2011 Due Process Hearing Officer Training	6/20/2011
Spring Special Education Administrators Training and Hearing Officer Update	3/23/2011

Ms. Nichols-Graham reported that she has taught the following law-related courses:

- (a) I presented a session on representing low income students and parents in school law to legal services agencies for South Carolina Appleseed Legal Justice Center on October 11, 2001.
- (b) I presented a session on representing low income families in school law at the South Eastern Project Directors Association for directors of legal service agencies on July 15, 2002.
- (c) I presented a session on monitoring re-segregation and protecting the poor for legal service lawyers at the National Legal Aid and Public Defender Substantive Law Conference on July 25, 2002.
- (d) I presented a session on the overview of a school law practice to legal services and pro bono attorneys for South Carolina Appleseed Legal Justice Center on August 12, 2004.
- (e) I presented a session on DSS Court Appointments and Defense Pointers to lawyers at the South Carolina Black Lawyers Association Retreat on October 22, 2004.
- (f) I presented a session on parent rights in school discipline procedures to legal services and pro bono attorneys for

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South Carolina Appleseed Legal Justice Center on February 24, 2006.

- (g) I presented a session on school discipline and special education discipline to lawyers in the Nelson Mullins Riley & Scarborough Education Pro Bono Project Training on August 10, 2006.
- (h) I presented a session on students still having due process rights to school administrators, professors, and attorneys at the Education Law Association's Annual Conference on October 22, 2009.
- (i) I have presented several sessions to attorneys and staff on education law at SC Legal Services' Statewide Meetings and in house education task force meetings.
- (j) I presented a session on working with students experiencing bullying to attorneys at the South Carolina Appleseed Legal Justice Center's Education Law Training on March 9, 2012.
- (k) I presented a session called balancing the scales of justice on representing students in education law cases for the South Carolina Bar on August 8, 2014
- (l) I presented a session called expulsion case pointers to provide practice tips for South Carolina Appleseed Legal Justice Center in October of 2014.
- (m) I presented a session on school discipline law at the South Carolina Bar Convention on January 24, 2015.
- (n) I presented a legal education session on adding school law to your private law practice at the South Carolina Black Lawyers Association Conference on September 18, 2015.
- (o) I presented a session on education law updates and developments at the South Carolina Legal Services Conference on November 19, 2015.
- (p) I presented a session on the school to prison pipeline at the South Carolina Public Defender Association on November 23, 2015.
- (q) I presented a session on forming partnerships to achieve equal educational opportunities for the South Carolina Appleseed Legal Justice Center on January 15, 2016.
- (r) I presented at session at the South Carolina Bar Convention on the rights of single fathers in adoption cases on January 23, 2016.

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- (s) I presented a session on victim's rights in education at the Victim's Rights Conference on April 20, 2016.
- (t) I co-presented a session on practical legal issues at the School to Prison Pipeline: Children with Disabilities seminar on June 24, 2016.

Ms. Nichols-Graham reported that she has not published any books or articles.

(4) Character:

The Commission's investigation of Ms. Nichols-Graham did not reveal evidence of any founded grievances or criminal allegations made against her. The Commission's investigation of Ms. Nichols-Graham did not indicate any evidence of a troubled financial status. Ms. Nichols-Graham has handled her financial affairs responsibly.

The Commission also noted that Ms. Nichols-Graham 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. Nichols-Graham reported that she is not rated by any legal rating organization.

(6) Physical Health:

Ms. Nichols-Graham appears to be physically capable of performing the duties of the office she seeks.

(7) Mental Stability:

Ms. Nichols-Graham appears to be mentally capable of performing the duties of the office she seeks.

(8) Experience:

Ms. Nichols-Graham was admitted to the South Carolina Bar in 1998.

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

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Legal Services Agency of Western Carolina, Inc. Greenville, South Carolina.

Staff Attorney. Provided general law practice and community education in housing, probate, and family law cases. November 1998 to September 1999.

Children's Law Attorney. Practiced law for low income children by focusing primarily on adoptions, children's social security cases, special education advocacy, and school discipline cases. September 1999 until December 31, 2001.

South Carolina Legal Services. Greenville, South Carolina.

Staff Attorney II. Practices law in cases in Greenville County that includes divorce, custody, school discipline, special education, special needs relative adoptions, bankruptcy, credit card defense, and children social security appeals. Appears in Magistrate's Court, Family Court, the Court of Common Pleas, Court of Appeals, and the U. S. Bankruptcy Court in various cases. January 1, 2002 to present.

Education Unit Head. Leads the education unit, seeks local funding when possible, trains legal service attorneys across the state in representing students in the public education system, teaches parents how to advocate for children, responds to requests for training from community groups, and operated the Greenville County United Way's Securing Public School Opportunities Program. Education cases include special education, school discipline, 504 accommodation plans, school enrollment, and homeless student education cases throughout South Carolina providing representation before local hearing officers, School Boards, the South Carolina Department of Education, the United States Department of Education, the Court of Common Pleas, and the South Carolina Court of Appeals. March 2003 to present.

Acting Managing Attorney. Supervised six attorneys, two paralegals, and three support staff. Assigned cases, supervised legal work, handled personnel issues, and participated on management team while the Managing Attorney was on extended leave. September 24, 2007 through December 31, 2007.

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Acting Managing Attorney. “Supervised five full time attorneys, three contract attorneys, one volunteer attorney, three support staff employees, and a satellite office. Reviewed emergency intakes, assigned cases, supervised legal work, handled personnel issues, and provided other managerial duties while the Managing Attorney was on extended leave. August 26, 2009 through November 24, 2009.”

Interim Managing Attorney. Ensures the efficient operation of the Greenville Office and maintains a caseload primarily in family court. The Greenville Office serves Greenville, Anderson, Pickens, and Oconee counties. Reviews, accepts and assigns or denies applicants. Reviews all cases for quality and compliance. Supervises the legal work of attorneys, several support staff, and the financial accounts. Addresses human resource issues. Prepares grant reports. Participates in the statewide management team. April 1, 2013 to present.

Managing Attorney (Greenville). Responsible for the provision of civil legal services in Anderson, Greenville, Pickens, and Oconee counties, the quality of legal services provided, and maintaining connections with the community and private bar. Reviews applications for legal services. Assigns cases and provides case load management. Provides employee evaluations for support staff and attorneys. Provides human resource management and addresses grievances. Provides guidance and training. Manages client trust and petty cash accounts. Assures compliance with grants, policies, and procedures. Maintains a case load in the service area. Participates in grant writing. Permanent Position from June 1, 2013 to present.

As the Managing Attorney (Greenville) I also serve as the Interim Managing Attorney (Low Income Taxpayer Clinic). Supervises and manages the Clinic Director, paralegal, and attorneys that assist with tax cases for South Carolina Legal Services in all counties. Provides case load management, monitors the quality of legal services provided, facilitates assigning cases, denies applicants, provides human resource management, and reviews grant applications and reports. January 2015 to present.

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Ms. Nichols-Graham further reported regarding her experience with the Family Court practice area:

I have experience in handling divorces (physical cruelty, one year separation, and adultery defense), although my experience is primarily with physical cruelty divorces because of the legal services case acceptance policy. I have significant experience in handling custody and adoption cases. My custody cases involve disputes involving biological parents and non-biological parents but usually when there is an allegation of abuse and DSS is not involved or custody is needed to secure some benefit on behalf of the child. My experience with adoption cases is primarily with relative special needs adoptions. I have experience representing defendants in abuse and neglect cases but lately due to limited resources we refer many of those cases to court appointed attorneys unless we are already representing a party in a divorce or custody case. I do not have significant experience handling juvenile justice cases but I believe the vast amount of work that I do for students in school discipline cases has more than prepared me to learn what I do not know in that area.

As a Managing Attorney I have experience in quickly reviewing the facts and applicable laws in divorce and equitable division of property, child custody, adoption, and abuse and neglect applications for legal services to determine whether there is merit to the application, if we will accept or deny the application, if accepted I assess the level of services that we will provide, and assign the file to a staff attorney or private attorney for legal representation.

As the Education Unit Head I have experience in reviewing juvenile justice cases to determine if there are special education or school discipline issues that require attention.

Ms. Nichols-Graham reported the frequency of her court appearances during the past five years as follows:

- (a) Federal: 3%;
- (b) State: 97%;
- (c) Other: 0%.

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Ms. Nichols-Graham reported the percentage of her practice involving civil, criminal, and domestic matters during the past five years as follows:

- (a) Civil: 47%;
- (b) Criminal: 0%;
- (c) Domestic: 53%
- (d) Other: 0%.

Ms. Nichols-Graham reported the percentage of her practice in trial court during the past five years as follows:

- (a) Jury: 0%;
- (b) Non-jury: 100%.

Ms. Nichols-Graham provided that she most often served as sole counsel.

The following is Ms. Nichols-Graham's account of her five most significant litigated matters:

- (a) (Sealed File). John Row, et al. vs. John Doe, et al.,
This case was significant because a single father registered on the responsible father registry before his child was placed with an out of state couple for adoption. We reviewed adoption practices and were able to prevail by using the due process provisions already codified but often overlooked in practice. The litigation strategy was shared at a few legal education trainings. ABC Nightline News also aired a follow up story with the single father regarding the responsible father registry while protecting the identity of the Plaintiffs.
- (b) Jane Doe, A High School Student in Richland County School District Two and her Parent, Mary Doe, vs. Richland County School District Two. Case Number: 2006-CP-40-6545.
This case was significant to me because I represented a student that was expelled from school and accused of committing sexual offenses without any evidence. The parent unsuccessfully appealed to the board after simply stating persuasive legal grounds but she needed legal services to appeal to the court system. We prevailed in circuit court but the school district appealed the decision to the court of appeals. This case is evidence that things

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do not always work themselves out and there are times that the indigent need civil legal services to secure basic opportunities. Decided March 25, 2009. 382 S.C. 656; 677 S.E.2d 610.

- (c) Martha Sue Payne vs. Mary and Ray Patterson.
William Scott McFadden, Case Number 2005-DR-23-3223.

This case was significant because I successfully defended a change of custody action among relatives for children that were previously abused and neglected. I also represented the third party in the previous contested abuse and neglect case. The court granted my motion an involuntary dismissal at the conclusion of the Plaintiff's case.

- (d) Martha Sue Payne vs. Mary Patterson, Case Number: 2006-DR-23-4112.

This case was significant to me because I was unsuccessful in appealing a visitation contempt case. It is important for people to have access to the legal system but the legal system should not be involved in every family dispute.

- (e) Darla Yates vs. Eddie Crooks, Case Number: 2005-DR-39-418.

This case was significant to me because I represented a client in a visitation Rule to Show Cause. There was an allegation of a history of abuse in a prior case that prevented my client from being able to represent herself.

The following is Ms. Nichols-Graham's account of two civil appeals she has personally handled:

- (a) Jane Doe, A High School Student in Richland County School District Two and her Parent, Mary Doe, vs. Richland County School District Two, 382 S.C. 656, 677 S.E.2d 610 (Ct. App. 2009).
- (b) Unpublished Opinion. Martha Sue Payne vs. Mary Patterson. South Carolina Court of Appeals. Decided April 26, 2010.

Ms. Nichols-Graham reported that she has not personally handled any criminal appeals.

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Ms. Nichols-Graham further reported the following regarding unsuccessful candidacies:

- (a) I applied for Family Court Judge, At Large, Seat 4, in the Fall of 2012. I was found qualified but I did not receive a nomination.
- (b) I applied for Family Court Judge, Thirteenth Judicial Circuit, Seat 5, in Fall of 2013. I was found qualified but I did not receive a nomination.
- (c) I applied for Family Court Judge, Thirteenth Judicial Circuit, Seat 3 in Spring 2016. I was found qualified but I did not receive a nomination.

(9) Judicial Temperament:

The Commission believes that Ms. Nichols-Graham's temperament would be excellent.

(10) Miscellaneous:

The Upstate Citizens Committee on Judicial Qualifications found Ms. Nichols-Graham to be "Well Qualified" in the evaluative criteria of ethical fitness, professional and academic ability, character, reputation, experience, and judicial temperament, and "Qualified" in the remaining evaluative criteria of constitutional qualifications, physical health, and mental stability.

Ms. Nichols-Graham is married. She has one child.

Ms. Nichols-Graham reported that she was a member of the following Bar associations and professional associations:

- (a) South Carolina Bar, Young Lawyers Division, Executive Council 2002-2003.
- (b) South Carolina Bar Children's Law Committee
- (c) South Carolina Supreme Court CLE & Specialization Commissioner, June 2003-July 2009.
- (d) Council of Parent Attorneys and Advocates
- (e) South Carolina Black Lawyers Association. Assistant Secretary. 2013 to present.
- (f) Greenville County Bar Association
- (g) South Carolina Bar, Education Law Committee. General Public Information Subcommittee Chair 2014-2015.

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Ms. Nichols-Graham provided that she was a member of the following civic, charitable, educational, social, or fraternal organizations:

- (a) Young Lawyer of the Year Award. South Carolina Bar. 2001-2002.
- (b) Center for Educational Equity, Advisory Board of Directors (2001 to present) and Parent Reconnect Program Coordinator (2001 to 2008).
- (c) Protection and Advocacy for People with Disabilities, Board of Directors, Grievance Committee (first term), Chair of the Personnel Committee (current term).
- (d) United Way of Greenville County. Graduate Greenville Student Enrichment Committee. (2006-2007).
- (e) Bethlehem Baptist Church. Summer Bible Institute Instructor. June 2011.
- (f) Delta Sigma Theta Sorority Incorporated. Greenville (SC) Alumnae Chapter. Co-Chair of Social Action Committee 2016-2017.
- (g) Springfield Baptist Church. Unsung Heroine Award. March 24, 2013.
- (h) Pro Parents of South Carolina. Board of Directors.
- (i) The Ellen Hines Smith Legal Services Attorney of the Year 2015.
- (j) The Riley Institute Diversity Leadership. Fall 2015. Upstate. Class XX.

Ms. Nichols-Graham further reported:

Family and school law have always been natural interests of mine. Family relationships and educational experiences play an important role in everyone's development. My formal education was driven by a curiosity and desire to learn more about those relationships and to help others with those relationships and experiences. I blindly pursued a legal career to help and to serve the public. This does not mean that I am more susceptible to bribery than others. It is evidence to the contrary. Values like sound character, integrity, honesty, fairness, respect, and a dedication to public service are my family's business and they shaped my

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life experiences well before I began expressing personal opinions.

As a child, my family attended Nazarene Baptist Church in Mullins, South Carolina and everyone in my family was actively involved in our church. I quickly learned the difference between good and evil and right and wrong. Of course, growing up in a safe rural community with relatively stable families also helped.

A family courtroom was the first courtroom I observed when I was interested in going to law school. Judge Timothy Pogue allowed me to volunteer in his law firm because I wanted to go to law school but I did not know a lawyer. Judge Pogue had the juvenile defender contract and he was the Marion County DSS attorney so I learned a lot about family court before I went to law school.

I assisted with the administration of justice in family court when I volunteered to help complete Order of Protection paperwork while I was a college student at Winthrop. This experience gave me insight into part of the pro se process in family court.

When I was in law school I spent a lot of time in family court working for the Richland County Guardian ad Litem program. I became familiar with abuse and neglect and termination of parent rights cases as well as the role of the Guardian ad litem in and outside of court. I observed judges, lawyers, and Guardian ad Litem in many abuse and neglect and termination of parental rights trials. There were several family court judges in Richland County so I got to observe different judges addressing issues in and weighing concerns in many cases.

The first day I walked into a courtroom to represent a client as a member of the Bar, I was in a family court courtroom in a DSS vulnerable adult case before Judge Robert Jenkins. As a legal services attorney most of my courtroom experience has been overwhelmingly in family court.

Many of my significant cases are confidential and closed matters to protect the identity of minor

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children but I achieved a lot in publicly reported cases. During my legal career that covers over seventeen year of practice, I have represented many individuals in family court matters. I have also had the privilege of consulting with many legal service attorneys in numerous cases, court appearances, and appellate work. At this point in my career I work primarily with access to justice issues as a Managing Attorney weighing when limited resources can be used and measuring the quality of legal services provided to each client.

I believe my personal and professional experiences will continue to serve the public well if I am a successful candidate for Family Court.

(11) Commission Members' Comments:

The Commission commented that Ms. Nichols-Graham has an impressive breadth of experience, including working with people who have little financial resources.

(12) Conclusion:

The Commission found Ms. Nichols-Graham qualified, but not nominated for election to Family Court, At-Large, Seat 7.

**Michael Todd Thigpen
Family Court, At-Large, Seat 7**

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

(1) Constitutional Qualifications:

Based on the Commission's investigation, Mr. Thigpen meets the qualifications prescribed by law for judicial service as a Family Court judge.

Mr. Thigpen was born in 1970. He is 46 years old and a resident of Columbia, South Carolina. Mr. Thigpen 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:

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The Commission's investigation did not reveal any evidence of unethical conduct by Mr. Thigpen.

Mr. Thigpen 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. Thigpen reported that he has not made any campaign expenditures.

Mr. Thigpen 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. Thigpen 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. Thigpen to be intelligent and knowledgeable. His performance on the Commission's practice and procedure questions met expectations.

Mr. Thigpen described his continuing legal or judicial education during the past five years as follows:

<u>Conference/CLE Name</u>	<u>Dates</u>
(a) What Family Court Judges Want	11/12/2010;
(b) Mini Summit on Justice for Children;	12/02/2010;
(c) The Eight Types of Clients and How to Avoid Seven of Them	02/07/2011;
(d) Representing the Volunteer GAL	04/15/2011;
(e) Guardian ad Litem Program's Workshop	06/02/2011;
(f) What Family Court Judges Want You to Know	02/16/2012;
(g) ADR: An Ethical Approach	02/24/2012;
(h) Information to Represent Volunteer Guardians ad Litem	05/18/2012;

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- (i) Avoiding Critical Financial Errors in Divorce Settlements 02/11/2013;
- (j) Fourth Annual South Carolina Gun Law 02/18/2013;
- (k) Introduction to Court Annexed ADR 09/13/2013;
- (l) 2013 Hot Tips from the Coolest Domestic Law Practitioners 09/27/2013;
- (m) 2013 Family Court Bench Bar 12/06/2013;
- (n) 2014 Hot Tips from the Coolest Domestic Law Practitioners 09/26/2014;
- (o) 2014 Family Court Bench Bar 12/05/2014;
- (p) 2015 Guardian ad Litem Training and Update 02/06/2015;
- (q) Avoiding 20 Common Ethics Traps 02/17/2015;
- (r) Hot Tips for the Coolest Domestic Law Practitioners 09/25/2015;
- (s) South Carolina Family Court Bench Bar 12/04/2015;
- (t) 2014 Richland County Bar Ethics Seminar 02/22/2016.

Mr. Thigpen reported that he has taught the following law-related courses:

- (a) I co-presented and prepared the written materials for the Case Law Update: “Custody, Child Support, and Visitation” at the 2007 South Carolina Trial Lawyers Association Annual Convention;
- (b) In 2010, I lectured to a group of student therapists from Converse College about HIPAA, subpoenas, qualification as an expert witness, a therapist’s role in child custody cases, and other areas of family law;
- (c) I was a panel member for a panel discussion at the 2012 Program Attorney Training: Information to Represent Volunteer Guardians ad Litem; and
- (d) I assisted in training Volunteer Guardians ad Litem for the Spartanburg County Volunteer Guardian ad Litem Program on four or five occasions between 2002 and 2015.

Mr. Thigpen reported that he has published the following:

I have not published any books or articles. However, the Honorable Jerry D. Vinson, Jr. used a guardian ad litem report I had prepared to create the suggested format for a guardian ad litem’s report in his presentation of “Guardian ad Litem Reports:

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What's in it for me?" at the 2007 Children's Issues in Family Court seminar.

(4) Character:

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

The Commission also noted that Mr. Thigpen 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. Thigpen reported that he is rated 'BV' by Martindale-Hubbell.

Mr. Thigpen reported that he has never held a public office.

(6) Physical Health:

Mr. Thigpen appears to be physically capable of performing the duties of the office he seeks.

(7) Mental Stability:

Mr. Thigpen appears to be mentally capable of performing the duties of the office he seeks.

(8) Experience:

Mr. Thigpen was admitted to the South Carolina Bar in 1996.

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

- (a) I have been a sole practitioner in Spartanburg, South Carolina since I was admitted to the South Carolina Bar in 1996; my practice has always been devoted almost exclusively to family law cases; and I have represented thousands of Family Court clients since I began practicing law;

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- (b) I represented indigent Family Court clients through Piedmont Legal Services' Private Bar Involvement Program from 1997 until 2004;
- (c) I have served as the guardian ad litem in hundreds of private cases involving the issues of child custody, visitation, adoption, termination of parental rights, name changes, etc. since about 1998;
- (d) I was a contract attorney for the Spartanburg County Volunteer Guardian ad Litem Program from approximately 2002 until June 30, 2015;
- (e) I have been a certified Family Court Mediator since 2002, and I have mediated approximately 200 Family Court cases in the past five years; and
- (f) Since around 2004, I have done legal work on occasion for the General Counsel's Office at Spartanburg Regional Health Services District, Inc. primarily filing petitions in Probate Court to have a guardian and/or conservator appointed for its patients who are incapacitated and do not have adult relatives who are willing or able to consent to their medical treatment.

Mr. Thigpen reported the frequency of his court appearances during the past five years as follows:

- (a) Federal: 0%;
- (b) State: 100%.

Mr. Thigpen reported the percentage of his practice involving civil, criminal, and domestic matters during the past five years as follows:

- (a) Civil: 0%;
- (b) Criminal: 1%;
- (c) Domestic: 98%;
- (d) Other: 1%.

Mr. Thigpen reported the percentage of his practice in trial court during the past five years as follows:

- (a) Jury: 0%;
- (b) Non-jury: 100%.

Mr. Thigpen provided that he most often served as sole counsel.

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The following is Mr. Thigpen's account of his five most significant litigated matters:

- (a) Rollins v. Rollins, 2003-DR-42-1665, was a divorce action wherein the primary issue was child custody and I represented the father. The mother, who initially moved to Tennessee to live with family, was granted temporary custody of the parties' minor child at the temporary hearing, and we learned shortly before the final hearing that she had moved to Georgia. In preparation for trial, I was relying on the long-standing presumption against allowing a parent to relocate with a child out of state, as set forth in McAllister v. Patterson, 278 S.C. 481, 299 S.E.2d 322 (1982), but McAllister was overruled by Latimer v. Farmer, 360 S.C. 375, 602 S.E.2d 32 (2004), a few weeks before the final hearing. Fortunately, after a three day trial, I was able to successfully argue that the case of Davis v. Davis, 356 S.C. 132, 588 S.E.2d 102 (2003), allowed the judge to consider the mother's avowed desire to continue living out of state if she was awarded custody as a factor in determining which parent should be awarded custody in an initial child custody determination, and the father was awarded custody of the parties' minor child.
- (b) Husband v. Wife and Wife's Paramour, 2003-DR-23-____ (fictitious names used because the file is sealed) was a divorce action wherein I represented the wife's paramour, who was added as a party-defendant in the divorce action between husband and wife because it was alleged that he was the biological father of two of the three children born during husband and wife's marriage. Although we had a DNA test which reflected wife's paramour was in fact the biological father of the two youngest children, the primary issue was whether the presumption of legitimacy would overcome the DNA test. Although that issue has now been settled by our Supreme Court, husband's attorney challenged the results of the DNA test and, therefore, I was required to prove the chain of custody which took several telephone depositions. In addition, another interesting issue was whether husband would be required to prove wife unfit to be awarded custody of the two youngest children because he was not their biological

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father. Moreover, because S.C. Code Ann. § 63-7-2570(5) provides that a ground for termination of parental rights is “[t]he presumptive legal father is not the biological father of the child, and the welfare of the child can best be served by termination of the parental rights of the presumptive legal father, husband argued that he had parental rights to the two youngest children and it would not be in their best interests for his parental rights to be terminated. Although the case settled prior to trial, the case was particularly interesting to me because it involved complex constitutional issues that would have most likely had to be appealed all the way to the United States Supreme Court to be resolved.

- (c) Wright v. Staggs, et al., 2004-DR-42-3288, was an action wherein I represented the maternal grandmother who sought to terminate the parental rights of the biological father in and to his two minor children on the ground that he was convicted of the murder of the children’s biological mother pursuant to S.C. Code Ann. § 63-7-2570(10). After hearing the testimony of the children’s therapists and other witnesses, the court found it was in the best interests of the minor children for the parental rights of the biological father in and to his minor children to be forever terminated. In addition, the court granted the maternal grandmother’s request to change the children’s surname from the biological father’s surname to her surname. Although the biological father appealed the case, the Court of Appeals affirmed the trial court’s decision in an unpublished opinion.
- (d) Simpson, et al. v. Pham, et al., 2001-DR-23-5811, was an action wherein the biological father sought to overturn his daughter’s adoption by her stepfather almost two years after the adoption was finalized, and I represented the mother and adoptive father. The case was interesting because the biological father and his mother sought to have the mother’s marriage to the adoptive father annulled; the biological father’s mother sought to either directly or collaterally attack the adoption even though she was not a party to the adoption action; and the biological father and his mother also sought to have the biological father’s consent/relinquishment set aside even though a

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final decree of adoption had already been entered. Although the majority of those alleged causes of action were dismissed prior to trial, we were required to try the issue of whether or not the biological father could collaterally attack the adoption based on “extrinsic fraud,” and the court found the father failed to prove “extrinsic fraud” by clear and convincing evidence and dismissed the case.

- (e) Brown v. Brown, 362 S.C. 85, 606 S.E.2d 785 (Ct. App. 2004), was an initial child custody determination wherein I served as the guardian ad litem. After the father was granted custody of the parties’ minor children, the mother appealed. In her appeal, the mother argued, among other things, the trial court gave “de facto custody” to the paternal grandparents and failed to give sufficient weight to the minor children’s preference. Although the Court of Appeals affirmed, the decision is interesting to me as a guardian ad litem and attorney because it thoroughly discussed the issue of how much weight should be given to a child’s preference at various ages in a child custody determination.

The following is Mr. Thigpen’s account of the civil appeal he has personally handled:

Walters v. Pitts was a child support modification action wherein I represented the mother. After the court increased the father’s child support retroactive to January 1, 2002, required the father to pay his child support payments via wage withholding through the clerk of court’s office, and awarded the mother attorney’s fees and costs, the father appealed. In his appeal, the father argued the Family Court erred in: (1) increasing his child support obligation retroactive to January 1, 2002, (2) requiring him to pay his child support payments via wage withholding through the clerk of court’s office, and (3) awarding the mother attorney’s fees and costs. In an unpublished opinion, the Court of Appeals found the Family Court erred in increasing the father’s child support obligation retroactive to January 1, 2002, but found the facts warranted a retroactive increase to December 29, 2003. In addition, the Court of Appeals affirmed the

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Family Court's decision to require the father to pay his child support payments via wage withholding through the clerk of court's office and the award of attorney's fees and costs.

The following is Mr. Thigpen's account of the criminal appeal he has personally handled:

State v. R. W. T. (initials are used for the defendant because the charge was later dismissed and expunged) was an appeal of a criminal domestic violence conviction from the Magistrate Court to the Circuit Court wherein I represented the defendant. On appeal, we argued the Magistrate had improperly instructed the jury on the law of self-defense where the defendant had used non-deadly force in self-defense. Specifically, we argued the Magistrate's charge to the jury indicated the defendant had a duty to retreat before using non-deadly force in self-defense, and the charge also indicated to the jury that the defendant had to be in fear of death or great bodily harm before he could use non-deadly force in self-defense. The Circuit Court reversed the conviction and remanded the case to Magistrate Court for a new trial, but the charge was later dismissed and expunged.

Mr. Thigpen reported that he has not previously held any judicial office.

Mr. Thigpen further reported the following regarding an unsuccessful candidacy:

Family Court, Seat 6, At-Large, August 2012 (qualified but not nominated);

- (9) Judicial Temperament:
The Commission believes that Mr. Thigpen's temperament would be excellent.
- (10) Miscellaneous:
The Upstate Citizens Committee on Judicial Qualifications found Mr. Thigpen to be "Well Qualified" in the evaluative criteria of ethical fitness, professional and academic ability, character, reputation, experience, and judicial temperament, and

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“Qualified” in the remaining evaluative criteria of constitutional qualifications, physical health, and mental stability. The Committee found that based on the evaluative criteria, Mr. Thigpen meets the requirements in each area.

Mr. Thigpen is married to Laurie Lynn Ver-Cauteren Thigpen. He has no children.

Mr. Thigpen reported that he was a member of the following Bar associations and professional associations:

- (a) South Carolina Bar (Family Law Section);
- (b) American Bar Association (Family Court Section);
- (c) Spartanburg County Bar; and
- (d) Spartanburg County Family Court Committee.

Mr. Thigpen provided that he was not a member of any civic, charitable, educational, social, or fraternal organizations:

He further reported:

As a sole practitioner, I have always taken pride in the quality of my work, which has often times caused me not to delegate as much work as I should to my legal assistant and others. Therefore, because I understand the duties of a Family Court Judge extend far beyond the courtroom, I believe it could reflect negatively on me if I do not learn how to delegate more responsibilities to my administrative assistant and others.

On the other hand, because I have had family members involved in Family Court litigation, I have first-hand knowledge of the emotional and financial impact Family Court litigation has on the parties, their families, and the children involved. In addition, I have handled thousands of Family Court cases since I began practicing law, and I believe that experience has provided me with the insight necessary to understand how a Family Court Judge’s decision can forever change the lives of families, and most importantly children. In short, I believe the fact that I have devoted my practice almost exclusively to Family Court cases for almost twenty years should reflect positively on me as a candidate for Family Court Judge.

(11) Commission Members’ Comments:

The Commission commented that Mr. Thigpen has an impressive resume of experience in his Family Court work. He

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is a dedicated and caring lawyer with extensive guardian ad litem experience.

(12) Conclusion:

The Commission found Mr. Thigpen qualified, but not nominated for election to Family Court, At-Large, Seat 7.

**The Honorable Elizabeth Biggerstaff York
Family Court, At-Large, Seat 8**

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

(1) Constitutional Qualifications:

Based on the Commission's investigation, Judge York meets the qualifications prescribed by law for judicial service as a Family Court judge.

Judge York was born in 1969. She is 47 years old and a resident of Florence, South Carolina. Judge York 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 Judge York.

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

Judge York 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;

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

Judge York 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 York to be intelligent and knowledgeable. Her performance on the Commission's practice and procedure questions met expectations.

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

<u>Conference/CLE</u>	<u>Dates</u>
(a) 2010 Children's Law Conference	11/05/2010
(b) Mini Summit on Justice for Children	12/02/2010
(c) What Matters Most: Children, Families and the Courts	01/22/2011
(d) Breakfast Ethics Seminar	01/23/2011
(e) Family Court Issues at Home and Abroad	01/21/2011
(f) Law Office Technology	01/20/2011
(g) J. Waites Waring and the Dissent	05/19/2011
(h) Children's Law Center-DSS Seminar	12/09/2011
(i) Law Office Technology	01/19/2012
(j) Breakfast Ethics	01/22/2012
(k) Prosecuting Child Sexual Abuse Cases in Family Court	5/31/2013
(l) Teaching Credit-Yikes, I've gotten a DSS Appointment	09/11/2013
(m) Appellate Practice	09/27/2013
(n) Special Topics in Child Welfare Cases	12/06/2013
(o) Abbreviated Working together to Achieve Positive Outcomes for Children	10/15/2015
(p) Neurobiology of Addiction: Mental Health and Substance Abuse	02/27/2015
(q) Recognizing and Addressing Secondary Traumatic Stress/ Vicarious Trauma/ Compassion Fatigue in Attorneys	02/27/2015

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- | | | |
|-----|--|------------|
| (r) | Appellate Practice | 04/15/2016 |
| (s) | Working Together for the Best Interest of Children
and Families | 07/15/2016 |

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

- (a) I created a PowerPoint and lectured for the SC Bar video CLE “Yikes, I’ve Gotten a DSS Appointment.”
- (b) I have served on panel discussion for DSS in-house CLE Programs.
- (c) I created a PowerPoint and have given presentations to law enforcement on Title 63 of the SC Code.
- (d) I created a PowerPoint and have given a presentation to new DSS caseworkers on Title 63 of the SC Code.

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

- (4) Character:
The Commission’s investigation of Judge York did not reveal evidence of any founded grievances or criminal allegations made against her. The Commission’s investigation of Judge York did not indicate any evidence of disqualifying financial issues.

The Commission also noted that Judge York 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 York reported that her last available rating by a legal rating organization, Martindale-Hubbell, was Distinguished, 4.4/5.0.
Judge York reported that her last available rating by a legal rating organization, Avvo, was 6.7/10.0.

Judge York reported that she has not held any other public office other than judicial office.

- (6) Physical Health:

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

(7) Mental Stability:

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

(8) Experience:

Judge York was admitted to the South Carolina Bar in 1994.

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

- (a) From 1994 into 1995, I was a law clerk to the Honorable Don S. Rushing, a Circuit Court Judge. During six months of the year term, he was Chief Judge for Administrative Purposes (Criminal) in Charleston County.
- (b) From 1995 until 1996, I was an Assistant Solicitor for the Fourth Judicial Circuit prosecuting cases in the General Sessions Courts of Chesterfield, Darlington, Dillon, and Marlboro Counties.
- (c) From 1996 until 2004, I worked at the Law Firm of Jennings and Harris. I began as an associate and became a partner after several years. The firm had a general trial practice. My personal practice included a focus on the Family Court, although I practiced in all trial courts. I was also a contract attorney for the South Carolina Department of Social Services handling abuse and neglect cases for Chesterfield County. During that time, I was also an adjunct professor with Coker College, where I taught Business Law through their adult program. Additionally, I became a certified mediator for the Family Court in 2002.
- (d) From 2004 until 2006, I worked in the Law Office of Nancy Bailey, located in Florence, South Carolina. This practice focused almost exclusively on Family Court matters. As Florence was an initial mandatory-mediation county, I conducted mediations, including pro bono mediations for the Family Court during this time. I also continued to work as a contract attorney for the South Carolina Department of Social Services

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handling abuse and neglect cases for Chesterfield County.

- (e) In 2006, I began working for the South Carolina Department of Social Services on a full-time basis handling their abuse and neglect cases for Darlington and Chesterfield counties and assisting other counties.
- (f) In July 2016, I was appointed as a municipal judge for the City of Hartsville, South Carolina.

Judge York further reported regarding her experience with the Family Court practice area:

My professional experience has included a focus in the Family Court since 1996, and I have experience in each of the above-mentioned areas. I have represented the South Carolina Department of Social Services in abuse and neglect cases since 1996. From 1996 until 2006, I handled all types of family court cases including divorce, equitable division of marital property, child custody, adoption, and juvenile justice in addition to my work with abuse and neglect cases. In 2006, I began handling abuse and neglect cases on a full time basis. In this capacity with DSS, I have handled cases involving with the overlap of these cases with custody, adoption, and juvenile justice issues.

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

- (a) Federal: 0%;
- (b) State: 100%;

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

- (a) Civil: 0%;
- (b) Criminal: 0%;
- (c) Domestic: 0%;
- (d) Other: abuse and neglect in the Family Court 100%.

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

- (a) Jury: 0%;
- (b) Non-jury: 100%.

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Judge York provided that prior to her service on the bench she most often served as sole counsel.

The following is Judge York's account of her five most significant litigated matters:

- (a) SCDSS v. J. E., Case Number 96-DR-13-778
This was an abuse and neglect case in which the defendant was a foster mother who severely beat a foster child in her care, killing the child. The defendant mother had other foster children and an adopted child in her care. The deceased child was one of ten siblings in foster care. I not only handled the Family Court abuse and neglect side of the case, I also actively participated in the criminal trial of Ms. E (97-GS-13-77, 98-GS-13-10) and a civil trial against SCDSS and a school principal (97-CP-13-145, 98-CP-13-03). This case occurred as the child abuse code was changing nationwide. It involved the new code as well as the issues of severe abuse, mandatory reporting of abuse and neglect, and foster care licensing.
- (b) SCDSS, In the Interests of Baby Doe, Case Numbers 14-DR-13-645 and 15-DR-13-0628
Chesterfield County was thrust into the national news when a newborn was abandoned at the Health Department. The child was determined to be approximately three days old at the time she was left in a restroom at the health department. SCDSS had to obtain a birth certificate for the child whose parents were never located. Additionally, I had to weigh the interests of the privacy of the infant as DSS received nationwide requests to adopt the child. This balancing required considering the rights of the unknown parents, while expediting permanency for the child, who has since been adopted.
- (c) SCDSS v. LJ, SJM, OG, Case Number 15-DR-16-667
This is the most recent case among many involving three children. The agency's involvement with this family began in 2006 and has continued off and on until today. Two of the children are twins and all of the children have delays and have exhibited behavioral issues. The children have spent the majority of their lives in foster

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care, but now seem secure in a possible stable, long term, hopefully adoptive placement(s). The reason that this case is listed is because it involved the importance of the correct use of expert witnesses. Numerous psychological evaluations have been used, as well as medical experts in child abuse. Further, I tried a termination of parental rights action in this matter for three days wherein the Court allowed the children to return to a relative placement alternative. This case is significant because it emphasizes, at least to me, the need for permanency for the children weighed against the efforts to place children with relatives and/or a return home.

(d) State v. Grandison, 01-GS-34-241, 242

A week long armed robbery trial. My client was convicted of armed robbery. The jury determined that my client was the driver of the get-away car. The case was involved video surveillance and its admission which was fairly new at the time as well the cases involving the “hand of one is the hand of all.” Mr. Grandison was a college student who grew up in Delaware and was attending college in Virginia. He was in South Carolina with “friends” from college, one of who was from this State. The first two friends apprehended gave statements and the admissibility of those statements and the weight given was an issue. Additionally, I filed several Motions to try to have the State try my client separately from the gunman.

(e) SCDSS, In the Interests of JC, Case Number 09-DR-13-378

This case involved severe abuse and neglect of three siblings. The abuse included locking the children out of the family home during the day in severe heat. One sibling was placed into a dark storage building for days with no electricity or water and forced to wear a shock collar. A sibling of this child was asked to shock the other child and to empty the bucket that the child used for a restroom. All siblings had to empty the bucket that the children used as a restroom while working in the yard. The case involved media attention, a corollary criminal trial, and required expediting of the case to

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assist these children. Personally, I will never forget preparing these children for trial. The perpetrators no longer have parental rights to the child. Two of the siblings have been adopted. The sibling who was asked to perform the shocking of the other sibling has been opposed to adoption and has requested to remain in a placement in an area where he had been placed initially. He is an honors student at a high school in South Carolina.

The following is Judge York's account of five civil appeals she has personally handled:

- (a) SCDSS, Respondent, v. FV, JV, and TD, of whom FV and JV are Appellants. In the Interests of three minors. Case Number 2011-UP-467
This appeal from the Family Court of Darlington County involved Appellants FV and JV's challenging the Court's finding of abuse and/or neglect, the Treatment Plan ordered, and the placement of their names onto the Central Registry of Child Abuse and Neglect. The Court of Appeals upheld the finding of abuse and/or neglect, found the issue presented on the Treatment Plan was moot as argued by SCDSS, and reversed placement of the names of FV and JV onto the Central Registry of Child Abuse and Neglect.
- (b) SCDSS, Respondent, v. GMP AKA ZP, MP, and John Doe, In the Interest of a minor child under eighteen years, Case Number 2012-UP-470.
MP appealed the termination of his parental rights. The Court of Appeals reviewed his case pursuant to Ex Parte Cauthen, 291 S.C. 465, 354 S.E.2d 381 (1987), and upheld the termination of his parental rights.
- (c) SCDSS, Respondent, v. ZP, MP, of whom EP is the Appellant, In the Interests of one minor child under the age of 18, Case Number 2010-UP-240.
ZP appealed the Family Court's Order from a Permanency Planning hearing alleging that the evidence did not support the finding that the reunification was no longer a viable plan for the child and contending that the child's guardian ad litem did not perform her duties as

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mandated. The Court of Appeals upheld the decision of the Family Court.

- (d) SCDSS, Respondent, v. SG, LG, GB, and John Doe, of whom SG is the Appellant. In the interests of five children under the age of eighteen, Case Number 2009-UP-164.

SG appealed the termination of his parental rights. The Court of Appeals reviewed this case pursuant to Ex Parte Cauthen, 291 S.C. 465, 354 S.E.2d 381 (1987), and upheld the termination of his parental rights.

- (e) SCDSS v. BL, TH, Case Number 2015-002525
This is a pending appeal pursuant to Ex Parte Cauthen, 291 S.C. 465, 354 S.E.2d 381 (1987), of an Order from a judicial review hearing in the Family Court.

Judge York reported that she has not personally handled any criminal appeals.

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

I was appointed as a Municipal Judge for the City of Hartsville on July 1, 2016, and I presently serve in that capacity.

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

The cases over which I preside in the Municipal Court do not involve or require written orders.

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

By agreement with the South Carolina Department of Social Services, and with the consent of both DSS and the City of Hartsville, I continue to represent DSS in abuse and neglect cases. My supervisor is Adrienne Woods. My last day as a full-time DSS employee will be August 19, 2016.

- (9) Judicial Temperament:
The Commission believes that Judge York's temperament has been, and would continue to be, excellent.

- (10) Miscellaneous:

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The Pee Dee Citizens Committee on Judicial Qualifications found Judge York to be “Well Qualified” in the evaluative criteria of ethical fitness, professional and academic ability, character, reputation, experience, and judicial temperament, and “Qualified” in the remaining evaluative criteria of constitutional qualifications, physical health, and mental stability.

Judge York is divorced. She has two children.

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

- (a) Darlington County Bar Association
Current President
- (b) South Carolina Bar Association
Current Member, Nominating Committee, multiple terms
Board of Governors, 2010-2013
House of Delegates, multiple terms
- (f) Young Lawyers Division of the South Carolina Bar
Circuit representative, multiple terms
Co-Chair, Community Law week
- (g) Law Related Education, South Carolina Bar
Middle School Mock Trial Coach
Middle School Mock Trial Judge

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

- (a) Central United Methodist Church, Florence South Carolina
Finance Committee Member
Greeter, The Well
Member
- (b) United States Tennis Association
Team Captain, Pee Dee Region
- (c) Florence Tennis Association
- (d) All Saints’ Episcopal Day School, parent guild

(11) Commission Members’ Comments:

The Commission appreciates Judge York’s service as a municipal judge. The Commission noted her extensive experience with DSS matters.

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- (12) Conclusion:
The Commission found Judge York qualified, but not nominated for election to Family Court, At-Large, Seat 8.

**The Honorable B. Keith Griffin
Administrative Law Court, Seat 2**

**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 42 years old and 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.

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.

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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 continuing legal or judicial education during the past five years as follows:

<u>Conference/CLE Name</u>	<u>Date(s)</u>
(a) Annual Convention and Seminar	09/07/2011;
(b) Summary Court Judges Fall Program	11/04/2011;
(c) It's All a Game-Top Trial Lawyers Tackle Evidence	07/03/2012;
(d) Magistrate's Mandatory School	11/03/2012;
(e) Orientation School for Magistrates	03/24/2013;
(f) Orientation School for Magistrates	07/22/2013;
(g) Magistrate's Mandatory School	11/01/2013;
(h) 23 rd Annual Criminal Practice in SC	02/28/2014;
(i) Orientation School for Magistrates	03/17/2014;
(j) Prosecuting the Impaired Driver	06/18/2014;
(k) Orientation School of Magistrates	07/21/2014;
(l) Magistrate's Mandatory School	11/07/2014
(m) Orientation School-Magistrates	03/23/2015;
(n) Prosecuting the Impaired Driver	04/22/2015;
(o) Orientation School-Magistrates	07/20/2015;
(p) Summary Court Mandatory Program	11/06/2015;
(q) Orientation School-Magistrates and Municipal Judges	03/21/2016;
(r) Orientation School-Magistrates and Municipal Judges	07/21/2016.

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

- (a) I have been an adjunct instructor at Central Carolina Technical College since the 2003-4 academic year to the present. I have taught courses in the Paralegal, Criminal Justice, and Business/Management programs within the College respectively. All courses I have taught are

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survey courses students must complete as a part of obtaining an associate's 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, Trusts, and Estates, Torts, Workers Compensation, Legal Writing, and Legal Bibliography (a legal research course). I have also taught Criminal Law and Judicial Process for the Criminal Justice department and Business Law for the Management/Business department. I have for many years and currently serve on the Paralegal Advisory Board for Central Carolina.

- (b) I have also taught as an adjunct criminal law instructor for Troy University's Shaw Air Force Base/Sumter Campus. The classes I taught were for students pursuing a master's degree in Criminal Justice. In 2008, I taught Court Administration, and Seminar in the Administration of Justice. According to Troy University's 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." Seminar in the Administration of Justice (CJ 6622) is described 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." In 2011, I taught two semesters of Administrative Law. Administrative Law (CJ 6644) is "a study of the legal environment in which the public administrator functions. The process and procedures of administrative agencies including administrative discretion, rule-making, investigating, prosecuting, negotiating, and settling; constitutional law, statutory law, common law, and agency-made law. Liability of governments and their officers. Selected cases and decisions.

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- (c) Since 2013, Judge Phil Newsom and I have taught landlord-tenant law to newly appointed summary court judges at the request of South Carolina Court Administration. The class is taught twice a year. I last taught this class with Judge Newsom on July 21, 2016.

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 he is not rated by any legal rating organization.

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

- (a) I was appointed to the Sumter County Summary Court in August of 2002, and am currently serving in the same capacity. The summary court has criminal trial jurisdiction over all offenses subject to the penalty of a fine, as set by statute, but generally the court's jurisdiction does not exceed a five hundred dollar fine (\$500.00) or imprisonment not exceeding 30 days, or both. In addition, summary court judges are responsible for setting bail, conducting preliminary hearings, and issuing arrest, courtesy summons, and search warrants. Although there are exceptions to the amount in controversy such as evictions, summary court judges have civil jurisdiction when the amount in controversy

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does not exceed Seven Thousand Five Hundred Dollars (\$7,500.00). I have performed all functions required of a summary court judge whether it is a civil or criminal jury trial, non-jury trial, bond hearing, or a preliminary hearing. I have also served as a summary court judge for Lee County per order of Chief Justice Toal from April 19, 2011, to July 28, 2014.

- (b) I currently serve as an appointed part-time municipal judge for the Town of Pinewood. I served initially for one month in 2010 before the town suspended court operations. I was reappointed in May 2012 and currently hold court on a bimonthly basis in the evening. I have criminal jurisdiction over cases arising under ordinances of the town, and over all offenses which are subject to a fine not exceeding \$500.00 or imprisonment not exceeding 30 days, or both, and which occur within the town.

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

- (a) 2003- Present- Adjunct Instructor, Central Carolina Technical College. Over the years, I have taught classes in the paralegal, criminal justice, and business management programs. My current supervisor is Leonard Hopkins.
- (b) In 2008 and 2011, I served as an adjunct instructor for Troy University's Shaw Air Force Base/Sumter Campus. I taught three master's degree courses in Troy's criminal justice program. My supervisors were Lisa Bennett and Jim Egan.

Judge Griffin further reported the following regarding an unsuccessful candidacy:

I previously ran for the South Carolina Administrative Law Court in 2009. I was found to be qualified but not nominated.

- (6) Physical Health:
Judge Griffin appears to be physically capable of performing the duties of the office he seeks.

- (7) Mental Stability:

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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:

- (a) In 1999, I served as a law clerk to the Honorable Howard P. King, Resident Judge of the Third Judicial Circuit. I was responsible for assisting in management of the court docket, drafting of proposed orders, and document review.
- (b) In 2000, I served as a law clerk to the Honorable M. Duane Shuler, Judge of the South Carolina Court of Appeals. My responsibilities were to review trial transcripts and to write draft opinions for the judge.
- (c) In 2001, I was hired as an associate at the law firm of Robinson, Mcfadden, and Moore, P.C. I was responsible for a large collections practice inherited from a partner who subsequently left the firm. This practice included suits on account, actions for claim and delivery, foreclosure, foreign judgment actions, and an occasional mechanic's lien. I also assisted the partners as needed with legal drafting and handled appointed cases under Rule 608, SCACR. I was on the family court list at that time.
- (d) In August of 2002, I was appointed to the Sumter County Summary Court as a full-time summary court judge. I serve in this capacity to the present, and am currently the Associate Chief Magistrate. I have tried or handled all matters within the court's jurisdiction, including civil and criminal jury and non-jury trials, preliminary hearings, and bond hearings. I also served as a part time magistrate for Lee County per special order of Chief Justice Jean H. Toal. I served in Lee County from April 19, 2011, to July 28, 2014.
- (e) As previously mentioned, I am an adjunct instructor at Central Carolina Technical College and a former adjunct instructor for Troy University.

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- (f) For one month in 2010 (November 15, 2010 to December 29, 2010) and since May 2012, I have served as a part-time municipal judge for the Town of Pinewood. I conduct criminal and traffic court on a bimonthly basis in the evenings to ensure no conflicts with my full time duties for Sumter County.

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

- (a) Civil: 99%;
- (b) Criminal: 0%;
- (c) Domestic: 1%-appointed cases only;
- (d) Other: 0%.

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

- (a) Jury: less than 1%;
- (b) Non-jury: almost 100%.

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

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

- (a) Cain v. Avant- This case involved an alleged failure of a landlord to return a security deposit in accordance with Section 27-40-410. The landlord did not send the tenants a letter explaining why the landlord wished to withhold their security deposit within thirty days as required by the statute. The case was legally significant because the landlord argued that a good faith exception applied in the case due to the nature of the damages allegedly caused by the plaintiff. The landlord argued that despite the letter's noncompliance with the statute,

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the court had the right to make a factual determination whether the deposit was “wrongfully withheld” under the statute. I ruled that strict construction of the statute was required in this case and that I could not make such a determination despite her argument having some factual merit. The docket number for the case was 2015-CV-43101-1780. The case was appealed to the Circuit Court but was eventually settled between the parties. The Circuit Court docket number was 2015-CP-43-1866.

- (b) Bazen v. Anderson- This case involved a dispute between a buyer and seller of real estate under a contract of sale. Normally, the summary court has no jurisdiction to hear a matter involving title to real estate. However, the parties in this case signed a mutual release which nullified their sales contract. Accordingly, I ruled a tenancy at will now existed between the parties as the release was properly executed, was clear and unambiguous, and no evidence of fraud existed in the inducement or execution of the release. My ruling regarding the release and finding of a tenancy at will was upheld via order of the Circuit Court dated February 9, 2016. The Circuit Court order was not appealed. Our docket number for the case was 2015-CV-43101-1968. The Circuit Court docket number was 2015-CP-43-02031.
- (c) Lee County School District v. Mary L. Dinkins Higher Learning Academy- This case was a commercial eviction of a charter school by the Lee County School District. The parties did not have a true landlord tenant relationship as the charter school occupied the building owned by the district through a settlement of prior litigation between the two entities. When the time allowed for occupancy in the settlement agreement expired, the charter school refused to vacate. The case garnered local media attention (printed and television) due to the contentious relationship of the parties. I ruled that the School District had the legal right to evict. The defendant appealed the ruling, which required me to set an appeal bond and make a factual determination of the property’s fair rental value. Eventually, I had to issue

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an order dismissing the appeal by statute as the defendant did not comply with the bonding requirements as enumerated in Section 27-37-130 of the South Carolina Code. The Circuit Court affirmed my rulings in an order dated September 24, 2012. The docket number for the case was 2012-CV-31101-336. The docket number for the appeal was 2012-CP-31-0192. The case was appealed to the South Carolina Court of Appeals and given a docket number of 2012-213251. The case was dismissed by the Court of Appeals in accordance with Rule 203, SCACR on November 20, 2012.

- (d) American Acceptance Co. v. Sheila Stuckey and Eric Davis, d/b/a Eazy Towing- This case involved a lienholder who filed a claim under the South Carolina Unfair Trade Practices Act against a local Towing Company who was asserting a sham lien on a vehicle financed by the Plaintiff. The legal significance of the case was that the plaintiff was able to prove a valid UTPA claim which would affect the public interest. The case was also important because it clearly showed that this particular business was using state statutes and potentially this court's processes as a vehicle for fraud and deception of the citizens of Sumter County. This case was not appealed. The docket number was 2012-CV-43101-2394.
- (e) Ross v. June- This was a bailment case in which plaintiff's vehicle was stolen while in the possession of the defendant for repair. The court ruled that this was a bailment for mutual benefit under existing South Carolina Law and Plaintiff could not prove that defendant did not exercise due care in the possession and keeping of her vehicle. As the vehicle was locked inside a gate that was tall and secured with barbed wire, this court cannot say that as a factual matter that ordinary care was not exercised. There was no evidence that there were prior break-ins. The fact that the keys were in his shop building and a burglary was necessary to retrieve the keys also indicates ordinary care was exercised. I included this case simply to show the wide variety of litigation summary court judges must

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sometime entertain, and to show that summary court judges must be able to frequently perform significant legal research. The docket number was 2015-CV-43101-0853. The case was appealed to the Circuit Court and dismissed in accordance with Rule 41(a), SCRCF on May 4, 2015. The Circuit Court docket number was 2015-CP-43-1071.

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

(9) Judicial Temperament:

The Commission believes that Judge Griffin's temperament has been, and would continue to be, excellent.

(10) Miscellaneous:

The Pee Dee Citizens Committee on Judicial Qualifications found Judge Griffin to be "Well Qualified" in the evaluative criteria of ethical fitness, and "Qualified" in the remaining evaluative criteria of constitutional qualifications, professional and academic ability, character, reputation, physical health, mental stability, experience, and judicial temperament. The Citizens Committee also raised concerns over Judge Griffin's lack of experience in the Administrative Law Court.

Judge Griffin is married to Elizabeth Brown Shuler Griffin. He has one child.

Judge Griffin reported that he was a member of the following Bar associations and professional associations:

- (a) Sumter County Bar- 1999, August 2002-present;
- (b) I was a member of the Richland County Bar during my employment with Robinson, McFadden, and Moore, P.C.

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

- (a) Central Carolina Technical College Paralegal Advisory Board;
- (b) Former member, Presbyterian College Board of Visitors.

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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, attorney, and judge has taught me the importance of proper legal drafting, the importance of writing clearly, and how to write to a wide audience. Writing over hundreds of formal orders, opinions, and magistrate's returns has allowed me to greatly improve my legal writing. My experience at different levels of our judicial system is also important as the jurisdiction of the Administrative Law Court includes contested cases and appellate review. My service as a magistrate has taught me how to efficiently handle but professionally resolve a high volume of cases. My service as a summary court judge has also given me a good working knowledge in civil and criminal law. Serving as a summary court judge has also given me the opportunity to develop the proper judicial temperament necessary for service at any level of the judiciary. As summary court judges hear cases daily involving pro se litigants, it is imperative that you develop patience, fairness, and to respect everyone in order to properly fulfill one's duties as a public servant. Serving fourteen years on the bench has taught me humility, compassion, and restraint. I am proud that Chief Justice entrusted me to serve Lee County in their time of need for a summary court judge. I am also thankful that South Carolina Court Administration has requested my services as an instructor of new judges since 2013.

As in 2009, I acknowledge my inexperience practicing in front of the Administrative Law Court. I taught courses in Administrative Law to compensate for my lack of actual practice before this court. I do believe that I would adjust quickly to the new environment if nominated and elected. I am willing to work as hard as required for the citizens of South Carolina as I have for Sumter County for the last fourteen years. Serving on the judiciary at any level is a privilege for which I am thankful.

(11) Commission Members' Comments:

The Commission commented that Judge Griffin was a fine candidate. They noted he has an excellent reputation as a magistrate.

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- (12) Conclusion:
The Commission found Judge Griffin qualified, but not nominated for election to Administrative Law Court, Seat 2.

Bryan S. Jeffries
Administrative Law Court, Seat 2

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

- (1) Constitutional Qualifications:
Based on the Commission's investigation, Mr. Jeffries meets the qualifications prescribed by law for judicial service as an Administrative Law Court judge.

Mr. Jeffries was born in 1975. He is 41 years old and a resident of West Columbia, South Carolina. Mr. Jeffries 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 2002.

- (2) Ethical Fitness:
The Commission's investigation did not reveal any evidence of unethical conduct by Mr. Jeffries.

Mr. Jeffries 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. Jeffries reported that he has not made any campaign expenditures.

Mr. Jeffries 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.

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Mr. Jeffries 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. Jeffries to be intelligent and knowledgeable. His performance on the Commission's practice and procedure questions met expectations.

Mr. Jeffries described his continuing legal or judicial education during the past five years as follows:

Judicial:

- | | <u>Conference/CLEName</u> | <u>Date(s)</u> |
|-----|--|----------------|
| (a) | 2015 South Carolina Department of Health and Human Services, Hearings and Appeals Annual Retreat | 11/05/15; |
| (b) | 2016 South Carolina Department of Health and Human Services, Hearings and Appeals Annual Retreat | 04/22/16; |

Legal:

- | | <u>Conference/CLEName</u> | <u>Date(s)</u> |
|-----|--|----------------|
| (a) | 2011 South Carolina Solicitor's Conference | 09/25/11; |
| (b) | 2012 South Carolina Solicitor's Conference | 09/24/12; |
| (c) | 2013 South Carolina Solicitor's Conference | 09/22/13; |
| (d) | 2014 South Carolina Solicitor's Conference | 09/21/14; |
| (e) | 2015 South Carolina Solicitor's Conference | 09/20/15; |

Mr. Jeffries reported that he has taught the following law-related courses:

I taught a Legal Studies course for 2 years in 2003-2005 at South University, a technical college in Columbia, SC as an adjunct instructor. The program was geared toward students in a paralegal studies program. I taught Business Law and Civil Law courses for 2 years in 2008-2010 at Orangeburg-Calhoun Technical College, a technical college in Orangeburg, SC as an adjunct instructor. The program was geared toward students in a paralegal studies program.

Mr. Jeffries reported that he has not published any books or articles.

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(4) Character:

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

The Commission also noted that Mr. Jeffries 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. Jeffries reported that he is not rated by any legal rating organization.

(6) Physical Health:

Mr. Jeffries appears to be physically capable of performing the duties of the office he seeks.

(7) Mental Stability:

Mr. Jeffries appears to be mentally capable of performing the duties of the office he seeks.

(8) Experience:

Mr. Jeffries was admitted to the South Carolina Bar in 2002.

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

I went to work for the Fifth Circuit Solicitor's Office in Columbia, SC upon admission to the South Carolina Bar in November of 2002. I worked as a full-time assistant solicitor prosecuting criminal cases in Richland County. I was employed by the Fifth Circuit Solicitor's Office from November 2002-January 2005.

In January 2005, I left the Fifth Circuit Solicitor's Office in Columbia and moved to Orangeburg to work for the First Circuit Solicitor's Office as the supervising attorney for the office. I supervised a staff of 6 attorneys and also acted as special violent crime prosecutor for the circuit. I handled major

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violent crime cases. I worked in this capacity from January 2005-January 2008.

In January 2008, I started a private practice but remained employed by the First Circuit Solicitor's Office as a part-time assistant solicitor and have at all times since. I operate the Jeffries Law Firm with my wife and law partner, Lakesha Jeffries. My area of practice is primarily administrative law and has been since January 2008 when the law firm was formed. I have practiced regularly before the United States Social Security Administration's Offices of Adjudication and Review since January 2008. I represent claimants applying for social security disability before Administrative Law Judges throughout South Carolina, North Carolina and Georgia.

I am also a part-time hearing officer for the South Carolina Department of Health and Human Services. I have been employed by this agency since November, 2012. In that capacity, I am a hearing officer presiding over administrative law hearings involving South Carolina Medicaid appeals. It is a quasi-judicial position. I serve as an independent and impartial trier of fact in formal proceedings following appeals from South Carolina Department of Health and Human Services agency decisions. I make on the record decisions. Those wishing to challenge my decision will ultimately appeal it to the South Carolina Administrative Law Court. As hearing officer, I also oversee settlement negotiations in advance of hearings, rule on preliminary motions, and conduct pre-hearing conferences. I conduct hearings involving both written and oral testimony and allowing for cross-examination. I typically examine evidence, hear testimony and issue written decisions. I prepare and issue these decisions, along with written findings of fact and conclusions of law therein, upon consideration of the whole record, or those parts of it cited by a party and supported by and in accord with reliable, probative, and substantial evidence.

As an assistant solicitor for the past 13 years I have successfully represented the state in more than 75 jury trials and 200 bench trials in each obtaining convictions. I have successfully represented the state in more than 10 jury trials involving homicides obtaining convictions. I have been continuously employed by the First Circuit Solicitor's Office as a criminal prosecutor for the past 11 years.

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Mr. Jeffries reported the frequency of his court appearances during the past five years as follows:

- (a) Federal: approximately 12 times a month;
- (b) State: approximately 10 times a month;
- (c) Other: N/A

Mr. Jeffries reported the percentage of his practice involving civil, criminal, and domestic matters during the past five years as follows:

- (a) civil: 0%
- (b) criminal: 25%
- (c) domestic: 5%
- (d) other (administrative): 70%

Mr. Jeffries reported the percentage of his practice in trial court during the past five years as follows:

- (a) jury: 20%
- (b) non-jury: 80%

Mr. Jeffries provided that he most often served as sole counsel.

The following is Mr. Jeffries's account of his five most significant litigated matters:

- (a) State v Hercules Mitchell. I personally handled this case as a prosecutor in the Orangeburg County Court of General Sessions. The defendant was charged with and convicted of murder following a jury trial. He was sentenced to 33 years in prison. The case received significant local media attention.
- (b) State v. Lindy Jones. I personally handled this case as a prosecutor in the Orangeburg County Court of General Sessions. The defendant was charged with and convicted of criminal sexual conduct with a minor following a jury trial. He was sentenced to 16 years in prison for raping his step-daughter. The case received significant local media attention.
- (c) State v. Jimmy Taylor. I represented the State as prosecutor in the Orangeburg County Court of General Sessions. Mr. Taylor was charged with and convicted of driving under the influence of alcohol involving the

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death of another driver and three passengers. He was sentenced to 20 years in prison following a jury trial. The defendant killed a family of four in a head-on collision. A unique issue for the jury to consider was whether the collision was the victims' primary cause of death in that the vehicle was struck again by another vehicle after the collision with the defendant. The case received significant local media attention.

- (d) State v. Jerrold Price. I represented the State as prosecutor in the Richland County Court of General Sessions. Mr. Price was charged with and convicted of murder following a jury trial. The defendant was sentenced to life in prison without the possibility of parole. The defendant killed a well-known University of North Carolina football player in a gang related incident at a night club. The primary issue for the jury to consider was whether the gunshot fired by defendant was the proximate cause of the victim's death in that the victim was shot by two individuals. The case received significant local media attention.
- (e) State v. Phillip Jackson. I represented the State as prosecutor in the Richland County Court of General Sessions. Mr. Jackson was charged with and convicted of murder following a jury trial. The defendant fatally stabbed the male victim several times after a dispute over illegal drugs. The defendant was sentenced to life in prison without the possibility of parole. The case received significant local media attention.

Mr. Jeffries reported that he has not personally handled any civil appeals.

The following is Mr. Jeffries's account of five criminal appeals he has personally handled:

- (a) Henry Haygood v. State, Orangeburg County Court of Common Pleas, 3/1/10
- (b) William McCoy v. State, Florence County Court of Common Pleas, 9/11/09
- (c) David Suarez v. State, Orangeburg County Court of Common Pleas, 3/29/16

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- (d) Jeffrey Weston v. State, Richland County Court of Common Pleas, 7/9/08
- (e) Bobby Bell v. State, Richland County Court of Common Pleas, 7/20/10

(9) Judicial Temperament:

The Commission believes that Mr. Jeffries's temperament would be excellent.

(10) Miscellaneous:

The Midlands Citizens Committee on Judicial Qualifications found Mr. Jeffries to be "Well Qualified" in the evaluative criteria of ethical fitness, professional and academic ability, character, reputation, experience, and judicial temperament, and "Qualified" in the remaining evaluative criteria of constitutional qualifications, physical health, and mental stability. The Committee stated in summary, "Mr. Jeffries is a Well Qualified candidate for the office of Judge of the Administrative Law Court."

Mr. Jeffries is married to Lakesha White Jeffries. He has three children.

Mr. Jeffries reported that he was a member of the following Bar association and professional association:

- (a) Member, Orangeburg County Bar. I acted as President in 2012-2013 and Vice-President from 2011-2012

Mr. Jeffries provided that he was a member of the following civic, charitable, educational, social, or fraternal organizations:

- (a) Board Member of the board of directors for Family Shelter in Columbia, SC.
- (b) Member of Kiwanis of America in Orangeburg, SC.
- (c) Board Member of the board of directors for Samaritan House Homeless Shelter in Orangeburg, SC.

Mr. Jeffries further reported:

My ultimate career goal has always been to serve as a judge. I strongly believe in public service so I have opted for public sector employment my entire legal career. The position of judge is the ultimate public legal

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service in my estimation. My aunt, Judge Sandra Townes, is a Federal District Court Judge in Brooklyn New York. She is originally from Spartanburg, South Carolina. She was my favorite aunt and took a special interest in me since I was a school aged child and throughout my educational and professional development. She was appointed by President George W. Bush after having served on the State Circuit Court, Appellate Division and Court of Appeals in New York. Before that she worked as a state prosecutor in Syracuse, New York. She has always been my idol and has acted as a mentor throughout my life. It is no coincidence that my career has mirrored her career start in New York. She has repeatedly told me that her ability to review all legal matters with an independent and unbiased eye is what has served her best over her stellar judicial career. I aspire to do the same if the opportunity arises.

- (11) Commission Members' Comments:
The Commission commented that Mr. Jefferies has an outstanding reputation. Additionally, they noted his humble and honest responses to all questions asked.
- (12) Conclusion:
The Commission found Mr. Jeffries qualified, but not nominated for election to Administrative Law Court, Seat 2.

CONCLUSION

The Judicial Merit Screening Commission found the following candidates QUALIFIED AND NOMINATED:

SUPREME COURT

SUPREME COURT, SEAT 5

The Honorable Diane Schafer Goodstein
The Honorable George C. James Jr.
The Honorable R. Keith Kelly

COURT OF APPEALS

COURT OF APPEALS, SEAT 1

The Honorable Paul Edgar Short Jr.

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COURT OF APPEALS, SEAT 2

The Honorable Harris Bruce Williams

COURT OF APPEALS, SEAT 9

Blake Alexander Hewitt

The Honorable David Garrison (Gary) Hill

The Honorable Alison Renee Lee

CIRCUIT COURT

SEVENTH JUDICIAL CIRCUIT, SEAT 2

Grace Gilchrist Knie

The Honorable James Donald Willingham II

AT-LARGE, SEAT 1

Meliah Bowers Jefferson

The Honorable George Marion McFaddin Jr.

Timothy Ward Murphy

FAMILY COURT

EIGHTH JUDICIAL CIRCUIT, SEAT 2

Mindy Westbrook Zimmerman

Samuel M. Price Jr.

AT-LARGE, SEAT 7

Huntley Smith Crouch

Thomas (Tommy) Tredway Hodges

Delton Wright Powers Jr.

AT-LARGE, SEAT 8

Martha M. Rivers Davisson

The Honorable Rosalyn W. Frierson

Laurel Eden Harvey Hendrick

ADMINISTRATIVE LAW COURT

ADMINISTRATIVE LAW COURT, SEAT 2

Milton G. Kimpson

Grady L. Patterson III

Debra Sherman Tedeschi

Respectfully submitted,

/s/Sen. George E. "Chip" Campsen III

/s/Sen. Gerald Malloy

/s/Sen. Greg Hembree

/s/Ms. Kristian C. Bell

/s/Mr. Michael Hitchcock

/s/Rep. G. Murrell Smith, Jr.

/s/Rep. J. Todd Rutherford

/s/Rep. Peter M. McCoy, Jr.

/s/Mr. Joshua L. Howard

/s/Mr. Andrew N. Safran

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APPENDIX

**Report from the South Carolina Bar Judicial Qualifications
Committee**

**The Honorable Diane Schafer Goodstein, Summerville, SC
Supreme Court, Seat 5**

The South Carolina Bar's Judicial Qualifications Committee reports that the collective opinion of those Bar members surveyed regarding Judge Goodstein's candidacy for Supreme Court, Seat 5 is as follows:

Overall	Qualified
Constitutional Qualifications	Qualified
Physical Health	Qualified
Mental Stability	Qualified
Ethical Fitness	Qualified
Character	Qualified
Professional Academic Ability	Qualified
Reputation	Qualified
Experience	Qualified
Judicial Temperament	Qualified

**The Honorable George C. James Jr., Sumter, SC
Supreme Court, Seat 5**

The South Carolina Bar's Judicial Qualifications Committee reports that the collective opinion of those Bar members surveyed regarding Judge James' candidacy for Supreme Court, Seat 5 is as follows:

Overall	Well Qualified
Constitutional Qualifications	Qualified
Physical Health	Qualified
Mental Stability	Qualified
Ethical Fitness	Well Qualified
Character	Well Qualified
Professional Academic Ability	Well Qualified
Reputation	Well Qualified

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Experience	Well Qualified
Judicial Temperament	Well Qualified

**The Honorable R. Keith Kelly, Moore, SC
Supreme Court, Seat 5**

The South Carolina Bar's Judicial Qualifications Committee reports that the collective opinion of those Bar members surveyed regarding Judge Kelly's candidacy for Supreme Court, Seat 5 is as follows:

Overall	Well Qualified
Constitutional Qualifications	Qualified
Physical Health	Qualified
Mental Stability	Qualified
Ethical Fitness	Well Qualified
Character	Well Qualified
Professional Academic Ability	Well Qualified
Reputation	Well Qualified
Experience	Well Qualified
Judicial Temperament	Well Qualified

**The Honorable Paul Edgar Short, Jr., Chester, SC
Court of Appeals, Seat1**

The South Carolina Bar's Judicial Qualifications Committee reports that the collective opinion of those Bar members surveyed regarding Judge Short's candidacy for Court of Appeals, Seat1 is as follows:

Overall	Well Qualified
Constitutional Qualifications	Qualified
Physical Health	Qualified
Mental Stability	Qualified
Ethical Fitness	Well Qualified
Character	Well Qualified
Professional Academic Ability	Well Qualified
Reputation	Well Qualified
Experience	Well Qualified
Judicial Temperament	Well Qualified

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**The Honorable Harris Bruce Williams, Columbia, SC
Court of Appeals, Seat 2**

The South Carolina Bar's Judicial Qualifications Committee reports that the collective opinion of those Bar members surveyed regarding Judge Williams' candidacy for Court of Appeals, Seat 2 is as follows:

Overall	Well Qualified
Constitutional Qualifications	Qualified
Physical Health	Qualified
Mental Stability	Qualified
Ethical Fitness	Well Qualified
Character	Well Qualified
Professional Academic Ability	Well Qualified
Reputation	Well Qualified
Experience	Well Qualified
Judicial Temperament	Well Qualified

**Blake Alexander Hewitt, Conway, SC
Court of Appeals, Seat 9**

The South Carolina Bar's Judicial Qualifications Committee reports that the collective opinion of those Bar members surveyed regarding Mr. Hewitt's candidacy for Court of Appeals, Seat 9 is as follows:

Overall	Well Qualified
Constitutional Qualifications	Qualified
Physical Health	Qualified
Mental Stability	Qualified
Ethical Fitness	Well Qualified
Character	Well Qualified
Professional Academic Ability	Well Qualified
Reputation	Well Qualified
Experience	Well Qualified
Judicial Temperament	Well Qualified

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**The Honorable David Garrison (Gary) Hill, Greenville, SC
Court of Appeals, Seat 9**

The South Carolina Bar's Judicial Qualifications Committee reports that the collective opinion of those Bar members surveyed regarding Judge Hill's candidacy for Court of Appeals, Seat 9 is as follows:

Overall	Well Qualified
Constitutional Qualifications	Qualified
Physical Health	Qualified
Mental Stability	Qualified
Ethical Fitness	Well Qualified
Character	Well Qualified
Professional Academic Ability	Well Qualified
Reputation	Well Qualified
Experience	Well Qualified
Judicial Temperament	Well Qualified

**The Honorable Alison Renee Lee, Columbia, SC
Court of Appeals, Seat 9**

The South Carolina Bar's Judicial Qualifications Committee reports that the collective opinion of those Bar members surveyed regarding Judge Lee's candidacy for Court of Appeals, Seat 9 is as follows:

Overall	Qualified
Constitutional Qualifications	Qualified
Physical Health	Qualified
Mental Stability	Qualified
Ethical Fitness	Qualified
Character	Qualified
Professional Academic Ability	Qualified
Reputation	Qualified
Experience	Qualified
Judicial Temperament	Qualified

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**Grace Gilchrist Knie, Campobello, SC
Circuit Court, 7th Judicial Circuit, Seat 2**

The South Carolina Bar's Judicial Qualifications Committee reports that the collective opinion of those Bar members surveyed regarding Ms. Knie's candidacy for Circuit Court, 7th Judicial Circuit, Seat 2 is as follows:

Overall	Well Qualified
Constitutional Qualifications	Qualified
Physical Health	Qualified
Mental Stability	Qualified
Ethical Fitness	Well Qualified
Character	Well Qualified
Professional Academic Ability	Well Qualified
Reputation	Well Qualified
Experience	Well Qualified
Judicial Temperament	Well Qualified

**The Honorable James Donald Willingham II, Moore, SC
Circuit Court, 7th Judicial Circuit, Seat 2**

The South Carolina Bar's Judicial Qualifications Committee reports that the collective opinion of those Bar members surveyed regarding Judge Willingham's candidacy for Circuit Court, 7th Judicial Circuit, Seat 2 is as follows:

Overall	Well Qualified
Constitutional Qualifications	Qualified
Physical Health	Qualified
Mental Stability	Qualified
Ethical Fitness	Well Qualified
Character	Well Qualified
Professional Academic Ability	Well Qualified
Reputation	Well Qualified
Experience	Well Qualified
Judicial Temperament	Well Qualified

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**Meliah Bowers Jefferson, Greenville, SC
Circuit Court, At-Large, Seat 1**

The South Carolina Bar's Judicial Qualifications Committee reports that the collective opinion of those Bar members surveyed regarding Ms. Jefferson's candidacy for Circuit Court, At-Large, Seat 1 is as follows:

Overall	Qualified
Constitutional Qualifications	Qualified
Physical Health	Qualified
Mental Stability	Qualified
Ethical Fitness	Well Qualified
Character	Well Qualified
Professional Academic Ability	Well Qualified
Reputation	Well Qualified
Experience	Qualified
Judicial Temperament	Well Qualified

**The Honorable George Marion McFaddin Jr., Gable, SC
Circuit Court, At-Large, Seat 1**

The South Carolina Bar's Judicial Qualifications Committee reports that the collective opinion of those Bar members surveyed regarding Judge McFaddin's candidacy for Circuit Court, At-Large, Seat 1 is as follows:

Overall	Well Qualified
Constitutional Qualifications	Qualified
Physical Health	Qualified
Mental Stability	Qualified
Ethical Fitness	Well Qualified
Character	Well Qualified
Professional Academic Ability	Well Qualified
Reputation	Well Qualified
Experience	Well Qualified
Judicial Temperament	Well Qualified

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**Timothy Ward Murphy, Sumter, SC
Circuit Court, At-Large, Seat 1**

The South Carolina Bar's Judicial Qualifications Committee reports that the collective opinion of those Bar members surveyed regarding Mr. Murphy's candidacy for Circuit Court, At-Large, Seat 1 is as follows:

Overall	Well Qualified
Constitutional Qualifications	Qualified
Physical Health	Qualified
Mental Stability	Qualified
Ethical Fitness	Well Qualified
Character	Well Qualified
Professional Academic Ability	Well Qualified
Reputation	Well Qualified
Experience	Well Qualified
Judicial Temperament	Well Qualified

**Mindy Westbrook Zimmerman, Newberry, SC
Family Court, 8th Judicial Circuit, Seat 2**

The South Carolina Bar's Judicial Qualifications Committee reports that the collective opinion of those Bar members surveyed regarding Ms. Zimmerman's candidacy for Family Court, 8th Judicial Circuit, Seat 2 is as follows:

Overall	Well Qualified
Constitutional Qualifications	Qualified
Physical Health	Qualified
Mental Stability	Qualified
Ethical Fitness	Well Qualified
Character	Well Qualified
Professional Academic Ability	Well Qualified
Reputation	Well Qualified
Experience	Well Qualified
Judicial Temperament	Well Qualified

*Committee was unable to reach goal of 30 interviews completed, indicating knowledge of candidate, despite extraordinary effort.

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**Samuel M. Price Jr., Newberry, SC
Family Court, 8th Judicial Circuit, Seat 2**

The South Carolina Bar's Judicial Qualifications Committee reports that the collective opinion of those Bar members surveyed regarding Mr. Price's candidacy for Family Court, 8th Judicial Circuit, Seat 2 is as follows:

Overall	Qualified
Constitutional Qualifications	Qualified
Physical Health	Qualified
Mental Stability	Qualified
Ethical Fitness	Qualified
Character	Qualified
Professional Academic Ability	Qualified
Reputation	Qualified
Experience	Qualified
Judicial Temperament	Qualified

*Committee was unable to reach goal of 30 interviews completed, indicating knowledge of candidate, despite extraordinary effort.

**Huntley Smith Crouch, Lexington, SC
Family Court, At-Large, Seat 7**

The South Carolina Bar's Judicial Qualifications Committee reports that the collective opinion of those Bar members surveyed regarding Ms. Crouch's candidacy for Family Court, At-Large, Seat 7 is as follows:

Overall	Well Qualified
Constitutional Qualifications	Qualified
Physical Health	Qualified
Mental Stability	Qualified
Ethical Fitness	Well Qualified
Character	Well Qualified
Professional Academic Ability	Well Qualified
Reputation	Well Qualified
Experience	Well Qualified

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Judicial Temperament

Well Qualified

Thomas Tredway Hodges, Greenville, SC
Family Court, At-Large, Seat 7

The South Carolina Bar's Judicial Qualifications Committee, based upon its previous investigation of Mr. Hodges' candidacy for Family Court, reports that the collective opinion of those Bar members surveyed regarding Mr. Hodges' candidacy for Family Court, At-Large, Seat 7 is as follows:

Overall	Well Qualified
Constitutional Qualifications	Qualified
Physical Health	Qualified
Mental Stability	Qualified
Ethical Fitness	Well Qualified
Character	Well Qualified
Professional Academic Ability	Well Qualified
Reputation	Well Qualified
Experience	Well Qualified
Judicial Temperament	Well Qualified

Delton Wright Powers Jr., Florence, SC
Family Court, At-Large, Seat 7

The South Carolina Bar's Judicial Qualifications Committee reports that the collective opinion of those Bar members surveyed regarding Mr. Powers' candidacy for Family Court, At-Large, Seat 7 is as follows:

Overall	Qualified
Constitutional Qualifications	Qualified
Physical Health	Qualified
Mental Stability	Qualified
Ethical Fitness	Qualified
Character	Qualified
Professional Academic Ability	Qualified
Reputation	Qualified
Experience	Qualified
Judicial Temperament	Qualified

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*Committee was unable to reach goal of 30 interviews completed, indicated knowledge of candidate, despite extraordinary effort.

**The Honorable Rosalyn W. Frierson, Columbia, SC
Family Court, At-Large, Seat 8**

The South Carolina Bar's Judicial Qualifications Committee reports that the collective opinion of those Bar members surveyed regarding Judge Frierson's candidacy for Family Court, At-Large, Seat 8 is as follows:

Overall	Qualified
Constitutional Qualifications	Qualified
Physical Health	Qualified
Mental Stability	Qualified
Ethical Fitness	Qualified
Character	Qualified
Professional Academic Ability	Qualified
Reputation	Qualified
Experience	Qualified
Judicial Temperament	Qualified

**Laurel Eden Harvey Hendrick, Columbia, SC
Family Court, At-Large, Seat 8**

The South Carolina Bar's Judicial Qualifications Committee reports that the collective opinion of those Bar members surveyed regarding Ms. Hendrick's candidacy for Family Court, At-Large Seat 8 is as follows:

Overall	Qualified
Constitutional Qualifications	Qualified
Physical Health	Qualified
Mental Stability	Qualified
Ethical Fitness	Well Qualified
Character	Well Qualified
Professional Academic Ability	Well Qualified
Reputation	Well Qualified
Experience	Qualified
Judicial Temperament	Well Qualified

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**Martha M. Rivers Davisson, Williston, SC
Family Court, At-Large, Seat 8**

The South Carolina Bar's Judicial Qualifications Committee reports that the collective opinion of those Bar members surveyed regarding Ms. Davisson's candidacy for Family Court, At-Large, Seat 8 is as follows:

Overall	Qualified
Constitutional Qualifications	Qualified
Physical Health	Qualified
Mental Stability	Qualified
Ethical Fitness	Well Qualified
Character	Well Qualified
Professional Academic Ability	Qualified
Reputation	Qualified
Experience	Well Qualified
Judicial Temperament	Well Qualified

*Committee was unable to reach goal of 30 interviews completed indicating knowledge of candidate, despite extraordinary effort.

**Milton G. Kimpson, Columbia, SC
Administrative Law Court, Seat 2**

The South Carolina Bar's Judicial Qualifications Committee reports that the collective opinion of those Bar members surveyed regarding Mr. Kimpson's candidacy for Administrative Law Court, Seat 2 is as follows:

Overall	Well Qualified
Constitutional Qualifications	Qualified
Physical Health	Qualified
Mental Stability	Qualified
Ethical Fitness	Well Qualified
Character	Well Qualified
Professional Academic Ability	Well Qualified
Reputation	Well Qualified
Experience	Well Qualified
Judicial Temperament	Well Qualified

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**Grady L. Patterson III, Columbia, SC
Administrative Law Court, Seat 2**

The South Carolina Bar's Judicial Qualifications Committee reports that the collective opinion of those Bar members surveyed regarding Mr. Patterson's candidacy for Administrative Law Court, Seat 2 is as follows:

Overall	Qualified
Constitutional Qualifications	Qualified
Physical Health	Qualified
Mental Stability	Qualified
Ethical Fitness	Well Qualified
Character	Well Qualified
Professional Academic Ability	Well Qualified
Reputation	Well Qualified
Experience	Qualified
Judicial Temperament	Well Qualified

*Committee was unable to reach goal of 30 interviews completed, indicating knowledge of candidate, despite extraordinary effort.

**Debra Sherman Tedeschi, Columbia, SC
Administrative Law Court, Seat 2**

The South Carolina Bar's Judicial Qualifications Committee reports that the collective opinion of those Bar members surveyed regarding Ms. Tedeschi's candidacy for Administrative Law Court, Seat 2 is as follows:

Overall	Well Qualified
Constitutional Qualifications	Qualified
Physical Health	Qualified
Mental Stability	Qualified
Ethical Fitness	Well Qualified
Character	Well Qualified
Professional Academic Ability	Well Qualified
Reputation	Well Qualified
Experience	Well Qualified

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Judicial Temperament

Well Qualified

*Committee was unable to reach goal of 30 interviews completed indicating knowledge of candidate, despite extraordinary effort.

**The Honorable Ralph King Anderson, III, Columbia, SC
Supreme Court, Seat 5**

The South Carolina Bar's Judicial Qualifications Committee, based upon its previous investigation of Judge Anderson's candidacy for Supreme Court, reports that the collective opinion of those Bar members surveyed regarding Judge Anderson's candidacy for Supreme Court, Seat 5 is as follows:

Overall	Well Qualified
Constitutional Qualifications	Qualified
Physical Health	Qualified
Mental Stability	Qualified
Ethical Fitness	Well Qualified
Character	Well Qualified
Professional Academic Ability	Well Qualified
Reputation	Well Qualified
Experience	Well Qualified
Judicial Temperament	Well Qualified

**The Honorable Carmen Tevis Mullen, Hilton Head, SC
Supreme Court, Seat 5**

The South Carolina Bar's Judicial Qualifications Committee reports that the collective opinion of those Bar members surveyed regarding Judge Mullen's candidacy for Supreme Court, Seat 5 is as follows:

Overall	Qualified
Constitutional Qualifications	Qualified
Physical Health	Qualified
Mental Stability	Qualified
Ethical Fitness	Well Qualified
Character	Qualified
Professional Academic Ability	Well Qualified

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Reputation	Qualified
Experience	Qualified
Judicial Temperament	Well Qualified

**John Shannon Nichols, Columbia, SC
Supreme Court, Seat 5**

The South Carolina Bar's Judicial Qualifications Committee reports that the collective opinion of those Bar members surveyed regarding Mr. Nichols' candidacy for Supreme Court, Seat 5 is as follows:

Overall	Well Qualified
Constitutional Qualifications	Qualified
Physical Health	Qualified
Mental Stability	Qualified
Ethical Fitness	Well Qualified
Character	Well Qualified
Professional Academic Ability	Well Qualified
Reputation	Well Qualified
Experience	Well Qualified
Judicial Temperament	Well Qualified

**Matthew T. Richardson, Columbia, SC
Supreme Court, Seat 5**

The South Carolina Bar's Judicial Qualifications Committee reports that the collective opinion of those Bar members surveyed regarding Mr. Richardson's candidacy for Supreme Court, Seat 5 is as follows:

Overall	Qualified
Constitutional Qualifications	Qualified
Physical Health	Qualified
Mental Stability	Qualified
Ethical Fitness	Well Qualified
Character	Well Qualified
Professional Academic Ability	Well Qualified
Reputation	Well Qualified
Experience	Qualified
Judicial Temperament	Well Qualified

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**Jeffrey P. Bloom, Columbia, SC
Circuit Court, At-Large, Seat 1**

The South Carolina Bar's Judicial Qualifications Committee, based upon its previous investigation of Mr. Bloom's candidacy for Circuit Court, reports that the collective opinion of those Bar members surveyed regarding Mr. Bloom's candidacy for Circuit Court, At-Large, Seat 1 is as follows:

Overall	Well Qualified
Constitutional Qualifications	Qualified
Physical Health	Qualified
Mental Stability	Qualified
Ethical Fitness	Well Qualified
Character	Well Qualified
Professional Academic Ability	Well Qualified
Reputation	Well Qualified
Experience	Well Qualified
Judicial Temperament	Well Qualified

**William Vickery (Vick) Meetze, Marion, SC
Circuit Court, At-Large, Seat 1**

The South Carolina Bar's Judicial Qualifications Committee reports that the collective opinion of those Bar members surveyed regarding Mr. Meetze's candidacy for Circuit Court, At-Large, Seat 1 is as follows:

Overall	Qualified
Constitutional Qualifications	Qualified
Physical Health	Qualified
Mental Stability	Qualified
Ethical Fitness	Well Qualified
Character	Well Qualified
Professional Academic Ability	Well Qualified
Reputation	Well Qualified
Experience	Qualified
Judicial Temperament	Well Qualified

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*Committee was unable to reach goal of 30 interviews completed indicating knowledge of candidate, despite extraordinary effort.

**The Honorable Bentley D. Price, Charleston, SC
Circuit Court, At-Large, Seat 1**

The South Carolina Bar's Judicial Qualifications Committee reports that the collective opinion of those Bar members surveyed regarding Judge Price's candidacy for Circuit Court, At-Large, Seat 1 is as follows:

Overall	Well Qualified
Constitutional Qualifications	Qualified
Physical Health	Qualified
Mental Stability	Qualified
Ethical Fitness	Well Qualified
Character	Well Qualified
Professional Academic Ability	Well Qualified
Reputation	Well Qualified
Experience	Well Qualified
Judicial Temperament	Well Qualified

**Robert L. Reibold, Columbia, SC
Circuit Court, At-Large, Seat 1**

The South Carolina Bar's Judicial Qualifications Committee reports that the collective opinion of those Bar members surveyed regarding Mr. Reibold's candidacy for Circuit Court, At-Large, Seat 1 is as follows:

Overall	Well Qualified
Constitutional Qualifications	Qualified
Physical Health	Qualified
Mental Stability	Qualified
Ethical Fitness	Well Qualified
Character	Well Qualified
Professional Academic Ability	Well Qualified
Reputation	Well Qualified
Experience	Well Qualified
Judicial Temperament	Well Qualified

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**Melissa M. Frazier, Little River, SC
Family Court, At-Large, Seat 7**

The South Carolina Bar's Judicial Qualifications Committee reports that the collective opinion of those Bar members surveyed regarding Ms. Frazier's candidacy for Family Court, At-Large, Seat 7 is as follows:

Overall	Well Qualified
Constitutional Qualifications	Qualified
Physical Health	Qualified
Mental Stability	Qualified
Ethical Fitness	Well Qualified
Character	Well Qualified
Professional Academic Ability	Well Qualified
Reputation	Well Qualified
Experience	Well Qualified
Judicial Temperament	Well Qualified

*Committee was unable to reach goal of 30 interviews completed, indicating knowledge of candidate, despite extraordinary effort.

**Kimaka Nichols-Graham, Greenville, SC
Family Court, At-Large, Seat 7**

The South Carolina Bar's Judicial Qualifications Committee reports that the collective opinion of those Bar members surveyed regarding Ms. Nichols-Graham's candidacy for Family Court, At-Large, Seat 7 is as follows:

Overall	Well Qualified
Constitutional Qualifications	Qualified
Physical Health	Qualified
Mental Stability	Qualified
Ethical Fitness	Well Qualified
Character	Well Qualified
Professional Academic Ability	Well Qualified
Reputation	Well Qualified
Experience	Well Qualified
Judicial Temperament	Well Qualified

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**Michael Todd Thigpen, Roebuck, SC
Family Court, At-Large, Seat 7**

The South Carolina Bar's Judicial Qualifications Committee reports that the collective opinion of those Bar members surveyed regarding Mr. Thigpen's candidacy for Family Court, At-Large, Seat 7 is as follows:

Overall	Well Qualified
Constitutional Qualifications	Qualified
Physical Health	Qualified
Mental Stability	Qualified
Ethical Fitness	Well Qualified
Character	Well Qualified
Professional Academic Ability	Well Qualified
Reputation	Well Qualified
Experience	Well Qualified
Judicial Temperament	Well Qualified

**Elizabeth Biggerstaff York, Florence, SC
Family Court, At-Large, Seat 8**

The South Carolina Bar's Judicial Qualifications Committee reports that the collective opinion of those Bar members surveyed regarding Ms. York's candidacy for Family Court, At-Large, Seat 8 is as follows:

Overall	Qualified
Constitutional Qualifications	Qualified
Physical Health	Qualified
Mental Stability	Qualified
Ethical Fitness	Well Qualified
Character	Well Qualified
Professional Academic Ability	Qualified
Reputation	Qualified
Experience	Qualified
Judicial Temperament	Qualified

*Committee was unable to reach goal of 30 interviews completed indicating knowledge of candidate, despite extraordinary effort.

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**The Honorable B. Keith Griffin, Sumter, SC
Administrative Law Court, Seat 2**

The South Carolina Bar's Judicial Qualifications Committee reports that the collective opinion of those Bar members surveyed regarding Judge Griffin's candidacy for Administrative Law Court, Seat 2 is as follows:

Overall	Qualified
Constitutional Qualifications	Qualified
Physical Health	Qualified
Mental Stability	Qualified
Ethical Fitness	Well Qualified
Character	Well Qualified
Professional Academic Ability	Well Qualified
Reputation	Well Qualified
Experience	Well Qualified
Judicial Temperament	Well Qualified

*Committee was unable to reach goal of 30 interviews completed, indicating knowledge of candidate, despite extraordinary effort. Based on the low number of completed interviews, the Committee finds the candidate Qualified rather than Well Qualified.

**Bryan S. Jeffries, West Columbia, SC
Administrative Law Court, Seat 2**

The South Carolina Bar's Judicial Qualifications Committee reports that the collective opinion of those Bar members surveyed regarding Mr. Jeffries' candidacy for Administrative Law Court, Seat 2 is as follows:

Overall	Qualified
Constitutional Qualifications	Qualified
Physical Health	Qualified
Mental Stability	Qualified
Ethical Fitness	Well Qualified
Character	Well Qualified
Professional Academic Ability	Well Qualified
Reputation	Well Qualified

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Experience	Qualified
Judicial Temperament	Well Qualified

*Committee was unable to reach goal of 30 interviews completed, indicating knowledge of candidate, despite extraordinary effort.

MOTION ADOPTED

On motion of Senator JOHNSON, with unanimous consent, the Senate stood adjourned out of respect to the memory of Rev. Rufus Gaymon of Manning, S.C. Rev. Gaymon was born in the Panola area of Manning to the late Rev. Wallace Gaymon, Sr. and Marie Thompson Gaymon. Rufus was a loving husband, devoted father and doting grandfather who will be dearly missed.

ADJOURNMENT

At 11:06 A.M., on motion of Senator JACKSON, the Senate adjourned to meet tomorrow at 11:00 A.M., under the provisions of Rule 1B.

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