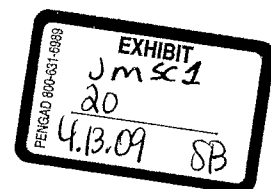


**JUDICIAL MERIT SELECTION COMMISSION  
PERSONAL DATA QUESTIONNAIRE**

Court, Position, and Seat # for which you are applying: Thirteenth Judicial Circuit,  
Resident Circuit Court Judge, Seat #3

1. NAME: Mrs. Kristie (Kris) Bjorndal Hodge  
BUSINESS ADDRESS: 13<sup>th</sup> Circuit Solicitor's Office  
Greenville County Courthouse  
305 East North Street, Suite 325  
Greenville, South Carolina 29601  
E-MAIL ADDRESS: khodge@greenvillecounty.org  
TELEPHONE NUMBER: (office): 864-467-8647
  
2. Date of Birth: 1970  
Place of Birth: Marshall, Minnesota
3. Are you a citizen of South Carolina? Yes.  
Have you been a resident of this state for at least the immediate past five years? Yes.
5. Family Status: Married March 21, 2004, to David Albert Hodge.  
One child.  
First marriage ended in divorce. My ex-husband was the moving party, William Harrell Foster, III. We divorced on the grounds of 1 year separation; and our divorce hearing was held on January 22, 2003, in Family Court, 13<sup>th</sup> Judicial Circuit. Order and Decree of Divorce was signed by the Honorable Stephen Bartlett on February 3, 2003.
6. Have you served in the military? I have not served in the military.
7. List each college and law school you attended, including the dates of your attendance, the degrees you received, and if you left an institution without receiving a degree, the reason for your departure.
  - (a) 1987-1991, University of South Carolina  
Bachelor of Science, Accounting Major  
Cum Laude;
  - (b) 1991-1994, University of South Carolina School of Law  
Juris Doctor.
8. List the states in which you have been admitted to practice law and the year of each admission. Also list any states in which you took the bar exam but were never admitted to the practice of law. If you took the bar exam more than once in any of the states listed, please indicate the number of times you took the exam in each state.  
South Carolina only, 1994  
I never took the bar in any other states.



9. List the significant activities in which you took part during your attendance at college, graduate, and law school. Give the dates you were involved in these activities and list any leadership positions you held.
- (a) College: 1989-1991 Phi Beta Kappa;  
1987-1991 Alpha Delta Pi;
- (b) Law School: 1991-1994 Palmetto Law Society.
10. Describe your continuing legal or judicial education during the past five years. Include **only** the title and date of any continuing legal or judicial education course completed.
- | <u>Conference/CLE Name</u>                            | <u>Date(s)</u> |
|---|----------------|
| (a) Technology in Prosecution                         | 05/11/08;      |
| (b) Child Abuse Summit                                | 09/15/08;      |
| (c) 7 <sup>th</sup> Annual Solicitor's Meeting        | 05/13/07;      |
| (d) 2006 SCTL Auto Torts XXIX                         | 12/01/06;      |
| (e) 13 <sup>th</sup> Circuit Solicitor's Office Conf. | 05/06/06;      |
| (f) 2005 SCTL Auto Torts XXVIII                       | 12/02/05;      |
| (g) 2004 SCTL Auto Torts XXVII                        | 12/03/04;      |
| (h) 4 <sup>th</sup> Annual Solicitor's Retreat        | 05/03/04.      |
11. Have you taught law-related courses or lectured at bar association conferences, educational institutions, or continuing legal or judicial education programs? If so, briefly describe each course or lecture.
- I have been a faculty member at the National College of District Attorneys, in Columbia, since 2002. I taught the following courses:
- (a) Pre Trial Advocacy May 20-24, 2002;
- (b) Trial Advocacy I July 28- August 1, 2003.
12. List all published books and articles you have written and give citations and the dates of publication for each.
- I have not published any books or articles.
13. List all courts in which you have been admitted to practice and list the dates of your admission. Give the same information for administrative bodies that require a special admission to practice.
- I have been admitted to practice in the State Courts of South Carolina since 1994.
14. Describe chronologically your legal experience since graduation from law school and include a list of all law firms with which you have been associated. Describe the general character of your practice and divide it into periods with dates if its character has changed over the years.
- (a) 1994-1995 - Law Clerk for the Honorable James W. Johnson, Jr.;
- (b) 1995-1999 - 13<sup>th</sup> Circuit Solicitor's Office;
- (c) 2000 - Present
- For my first two years as an Assistant Solicitor, I prosecuted General Sessions and Magistrate Court Cases;
- I was initially assigned to the General Crimes Unit, handling Burglary, Auto Breaking, Stalking, Assault and Battery, and Resisting Arrest

cases. After 2 years I was promoted to the Violent Crimes Unit, where I have remained during my employment with the Solicitor's Office. I am assigned Murder, Armed Robbery, CSC, Child Sexual and Physical Abuse cases in addition to the previously listed cases.

If you are a judge and are not seeking a different type of judgeship, the following questions are inapplicable:

- (b) If you are a candidate for **Circuit Court**, please provide a brief written description of your experience in criminal matters, including any cases handled over the past five years and include a brief description of the issues involved. Further, please provide a brief written description of your experience in civil matters, including any cases handled over the past five years and include a brief description of the types of matters handled, issues involved, and procedural history. Please include information such as the primary areas in civil court in which you practice, whether you represent plaintiffs or defendants, or both. You may go back further than five years if you feel it would assist the Commission with its assessment of your experience. If you lack experience in an area, describe how your background has prepared you to preside over such matters as a Circuit Court Judge, or how you would compensate for your lack of experience in this area.

As an Assistant Solicitor for the past 14 years, I have gained extensive experience in most all criminal matters that would come before me as a Circuit Court judge. I have either been sole counsel or lead counsel on all of my jury trials, which have gone to a jury verdict. I have failed to keep track of the exact number and type of cases I've tried, but a good estimate would be 50-60 General Sessions jury trials, and approximately 20 Magistrate Court jury trials. The General Sessions trials have been primarily ones involving violent crimes, such as Murder, Armed Robbery, Burglary 1<sup>st</sup> degree, Criminal Sexual Conduct, Child Sex Assault and Physical Abuse. I have also assist Solicitor Ariail in 2 death penalty cases, one was a bench trial and the other was a jury trial. As a trial attorney, I am extremely familiar with the Rules of Evidence, as well as the Rules of Criminal Procedure, and substantive criminal law. The most common legal issues that arise in criminal cases are those that relate to the admissibility of confessions or statements by a defendant; admissibility of photographic lineups; competency and criminal responsibility of the defendant; hearsay issues; and admissibility of prior bad acts of the defendant. There are several others that arise periodically, such as issues involving self defense, 3<sup>rd</sup> party guilty, Battered Woman's Syndrome, defense of duress and criminal intent.

As an Assistant Solicitor, I am responsible for managing a docket of 300-500 warrants at all times. Jury trials dispose of approximately 10-15 % of my docket, which leaves the other 85-90% to be disposed of by way of guilty pleas or diversionary programs. When attempting to

dispose of a case by way of a guilty plea, our office policy is to offer to make a sentencing recommendation to the judge, where appropriate. My plea offers are based on the specific facts of the case, and as I stated in Sworn Statement, my offer is based on several factors, no one certain factor dictates. Due to the nature of the relationship of the Solicitor's Office and the Defense Bar, I make sentencing recommendations on almost all of my cases. I feel this is an extremely important facet of my personal experience, which will help me be a fair and impartial judge when it comes time to impose sentences. I have seen almost every scenario one can imagine, from the worst of the worst to the "not so bad". This is important because it has given me perspective, which I rely on when making my sentence recommendations even now. It is also something that can not be learned by studying the rules, cases or advance sheets, but must be experienced over a certain length of time, to be properly applied. Admittedly, I lack experience in the area of civil law. I have never practiced civil law; however, I am an intelligent person with a strong work ethic, and I am committed to studying and preparing myself to be able to preside properly over Common Pleas, should I be elected to the bench. I have tried many cases, and I am very familiar with the Rules of Evidence, which are applied equally in civil and criminal law. I would hope my trial experience would compensate, to a significant degree, for my lack of experience in the subject matter of civil law.

15. What is your rating in Martindale-Hubbell? I am not listed in Martindale – Hubble.

**Retired judges/justices and judges/justices applying for reelection to their current position may omit Questions 16-21. If a candidate is seeking a judgeship different than his or her current position, Questions 16-21 should be answered based on experience prior to serving on the bench.**

16. What was the frequency of your court appearances during the last five years?  
(a) federal: -0-;  
(b) state: 2 to 3 weeks each month.
17. What percentage of your practice involved civil, criminal, and domestic matters during the last five years?  
(a) civil: -0-;  
(b) criminal: 100%;  
(c) domestic:-0-.
18. What percentage of your practice in trial court during the last five years involved matters that went to a jury, including those that settled prior to trial?  
(a) jury: 10-15% of my cases were jury trials that went to jury verdict;  
(b) non-jury: 85-90% of my cases were guilty pleas or diversion programs.  
Did you most often serve as sole counsel, chief counsel, or associate counsel in these matters? I served most often as sole counsel. I did serve as chief counsel on a few cases where I was mentoring a new attorney in our office.

19. List five of the most significant litigated matters you have personally handled in either trial or appellate court or before a state or federal agency. Give citations if the cases were reported and describe why these matters were significant.

- (a) State v. Earnetta King, 367 S.C. 131 (S.C.App. 2005), certiorari denied (3/8/07).

This is a murder case I prosecuted in 2003, where a mother and her boyfriend beat her 13 year old son to death, over the course of an evening, with various household objects. Codefendants were tried together and claimed that the other one was the actual killer. The mother gave two conflicting statements to police. Initially she admitted to being the sole assailant; then, after being in jail for approximately three months, she contacted the lead investigator and gave a second statement alleging the boyfriend was the sole assailant and she was a battered woman. The woman's 9 year old daughter witnessed part of the incident, and gave a statement to police the day after the murder, stating both her mother and the boyfriend were beating the victim. During the course of the trial, the 9 year old witness recanted and attempted to place all blame on the boyfriend, stating the police had gotten her statement wrong as it related to her mother. The jury convicted both defendants of murder; and the judge sentenced both defendants to life in prison. Both defendants appealed; and the boyfriend's case was affirmed. State v. Walker, 366 S.C. 643 (S.C.App., 2005). This case was significant for two main reasons. First, the sheer brutality evidenced by the injuries inflicted by these defendants on a child was horrifying, especially when one of them was his own mother. Second, trying codefendants together presented several legal issues, such as admissibility of statements without running afoul of Bruton issues, and presentation in the State's case to combat anticipatory defenses by both defendants. Unfortunately, the mother's case was reversed and remanded due to the judge excluding exculpatory evidence that the State (I) failed to disclose in a timely manner to defendant prior to the trial. For me, this was a painful lesson learned about the disclosure of possible exculpatory evidence. A mistake I will never make again.

- (b) State v. Timothy Stahlnecker, case not reported as of this time.

This is a case I tried in February of 2008. The defendant lived with his girlfriend and the girlfriend's 7 year old daughter. While the mother was taking another one of her children back to his home, the defendant made the 7 year old victim come up to his bedroom, take off her pants and panties, and he performed oral sex on her. He did not anticipate the mother being home as quickly as she was, and he was still in the process of molesting the child when she drove up to the house. At that point defendant told the child to go to her room and not tell her mother. The mother realized something was wrong, confronted the child and the

child disclosed the abuse. The mother immediately took the child to the Emergency Room to be examined. Once there, the child's clothes were collected and then sent to SLED for possible DNA analysis. The DNA expert at SLED was able to testify that a substance consistent with saliva was found in the crotch of the child's panties, but the sample was not large enough to compare to the defendant's DNA. The child testified, and the lead investigator was able to testify to the entirety of the child's statement to her at the hospital, under S.C. Code Section 17-23-175. This case was significant for me due to the fact it was the first time I was able to admit a child's hearsay statements to the jury through the lead investigator, when the child was not video taped; but due to the fact that the officer was trained in investigative interviews with children, and this was an emergency situation where no video taping capabilities were present to record the child's statement electronically. In addition, the case was significant due to the fact there was forensic evidence to corroborate the victim's testimony, which is almost unheard of in these types of cases.

- (c) State v. Wallace, 364 S.C.130 (S.C.App.2005), certiorari granted (Nov. 14, 2006).

This was a case I tried where a step daughter of the defendant alleged that the defendant had been sexually abusing her since she was in the 7<sup>th</sup> grade. The victim stated it started with fondling of breasts, and then progressed to forced digital penetration by the time she was in the 9<sup>th</sup> grade. The victim's older sister had also been sexually abused by the defendant, but never reported it to law enforcement, until the younger victim disclosed the abuse. The defendant had started abusing the older sister in the same manner as he did the younger sister; however, the older sister's abuse continued all the way through high school and until she moved out of the house and the defendant had intercourse with the older sister. At trial, I attempted to introduce the abuse of the older sister under Rule 404 (b), common scheme or plan exception. The trial court allowed a portion of the older sister's testimony under 404 (b), but only to the extent that it was similar to the abuse suffered by the younger sister. This case is significant because the Supreme Court consolidated arguments in this case with arguments in another Lyle-type case, State v. Hubner, 608 S.E. 2d (Ct. App. 2005). According to some commentators, it is possible that the Supreme Court may take the opportunity to provide a bright line rule to the Bar, and possibly open the door to approval to the admission of "propensity evidence" in sexual assault cases.

- (d) State v. Walter Gaines - this case is not reported at this time.

This is a murder case I tried May 2008. The victim was an elderly man, known in his neighborhood as being very kind and generous, willing to help out those less fortunate. He also was known to carry large

amounts of cash in his pocket, which ultimately led to his death. On the morning of his murder, this defendant was seen by two sisters who were waiting for the school bus. They observed defendant knock on the door and enter the victim's residence. They had never seen the defendant before, but were very familiar with the victim, and felt that something wasn't right. When they got home from school, law enforcement was at the victim's home, and the girls were informed the victim had been killed. The victim had been beaten and strangled. The victim's wallet and car were stolen. The girls immediately told what they had seen, and were able to describe the defendant to a sketch artist. The police received other information and were able to put the defendant in a lineup; both girls identified the defendant as the person entering the victim's house on the morning of his murder. Other witnesses testified that the defendant came to their area later that day, bragging of robbing a man and implying that he killed him. The defendant also had several hundred dollars in cash, and said he had a "hot" car. The jury found the defendant guilty of murder and he was sentence to life in prison. This case was significant, as all murder cases are, due to the nature of the case itself. Additionally, this case required locating and preparing witnesses, most of whom were friends or family members of the defendant. As you can imagine, it was not an easy task, but one that had to be done in the interest of achieving justice. This was a circumstantial evidence case. There was no forensic evidence to point to the identity or guilt of the defendant. The legal issues were not as complex in this case as in others, but it was the weaving together of the evidence for the jury that made this case one of the more difficult cases I've tried.

(e) State v. Essie Wright - this case was not reported.

This is a case I tried in July 2004, where several elderly people were residents at Essie Wright's Care Center, an owner-operated nursing home facility, and were neglected and abused by the defendant. This case was significant for me because it opened my eyes to another area in our community that needs great help, the elderly. The victims in this case were placed in the defendant's care by family members that could no longer take care of them for a variety of reasons. The family members trusted the defendant would take care of them, feed them, provide social or recreational activities for them, and provide them with adequate medical care and access to their doctors. An investigation by the Long Term Care Ombudsman revealed the defendant was barely feeding these people and giving them minimal liquids so she would not have to change their diapers, or so they would not have accidents while in the bed. The investigation also revealed no social or recreational activities were provided; but instead, the defendant would prop the victims up on hard plastic chairs, around a large screen television, and

lock them in the residence for several hours, unattended. Finally, one of the victim's family members came to visit and noticed how terrible their mother looked, and that she had severe bed sores. This victim was taken to the emergency room, where the doctor testified that she was severely malnourished and "looked like a refuge from a Nazi concentration camp". The defendant was found guilty of abuse and neglect of a vulnerable adult, and was sentence to 5 years of probation (due to her age, 57) and ordered not to participate in any nursing or home care services. Additionally, this case was significant to me due to the difficult time I had trying to find physicians that were willing to testify to the fact that these victims were being neglected or abused. Thankfully I was able to find one physician, the emergency room doctor, who was so disturbed by the treatment of these victims that he put their needs before his own inconvenience, and testified for the State.

20. List up to five civil appeals you have personally handled. Give the case name, the court, the date of decision, and the citation if the case was reported. **If you are a candidate for an appellate court judgeship (please attach one copy of briefs filed by you in each matter).**
- (a)
  - (b)
  - (c)
  - (d)
  - (e) I have not handled any civil appeals.
21. List up to five criminal appeals that you have personally handled. Give the case name, the court, the date of decision and the citation if the case was reported. **If you are a candidate for an appellate court judgeship (please attach one copy of briefs filed by you in each matter).**
- (a)
  - (b)
  - (c)
  - (d)
  - (e) I have not personally handled any criminal appeals. The Attorney General's Office handles all of our appeals.
22. Have you ever held judicial office? I have not held any judicial office.
23. If the answer to question 22 is yes, describe or list five of your most significant orders or opinions and give the citations if they were reported. Also list citations to any appellate review of these orders or opinions.
- (a)
  - (b)
  - (c)
  - (d)
  - (e) Not applicable
24. Have you ever held public office other than judicial office?  
I have not held any public office.



25. List all employment you had while serving as a judge (whether full-time or part-time, contractual or at will, consulting or otherwise) other than elected judicial office. Specify your dates of employment, employer, major job responsibilities, and supervisor. Not applicable.
26. Have you ever been an unsuccessful candidate for elective, judicial, or other public office?  
I have never been a candidate for any elective, judicial or other public office.
27. Have you ever been engaged in any occupation, business, or profession other than the practice of law, teaching of law, or holding judicial or other public office?
- (a) 1986-87 - The Limited- retail clothing store employee;
  - (b) 1988 - C.F. McCrary Co. - summer intern/administrative assistant for mechanical engineering company;
  - (c) 1989 - A.W. Shucks – waitress for the summer;
  - (d) 1990 - East Coast Bar & Grill- waitress for the summer, this restaurant is located in St. Thomas, USVI;
  - (e) 1990-91 - I interned with a small accounting firm during my senior year in college. I can not remember the name of the firm, and I believe it has since split up and has a different name today;
  - (f) 1999-2000 - Bristol Meyers Squibb – pharmaceutical sales representative, sold cholesterol lowering medicine and anti-platelet medication;
  - (g) 1991-present - Group Fitness Instructor – currently employed by Sportsclub in Greenville. Over the past 18 years, I have been employed by numerous fitness clubs, such as Gold’s Gym and Ladies Choice. In addition, I worked for the University of South Carolina as a group fitness instructor while I was an undergraduate student and a law student.
28. Are you now an officer or director or involved in the management of any business enterprise?  
I am not an officer or director or manager of any business enterprise.
29. A complete, current financial net worth statement was provided to the Commission.
30. Describe any financial arrangements or business relationships you have, or have had in the past, that could constitute or result in a possible conflict of interest in the position you seek. Explain how you would resolve any potential conflict of interest.  
I have not had any financial or business relationships that would result in a possible conflict of interest.
31. Have you ever been arrested, charged, or held by federal, state, or other law enforcement authorities for violation or for suspicion of violation of any federal law or regulation, state law or regulation, or county or municipal law, regulation, or ordinance, or any other law, including another country’s law?  
No. Not applicable.

32. Have you, to your knowledge, ever been under federal, state, or local investigation for possible violation of a criminal statute?  
To my knowledge, I have never been under investigation for possible criminal violations.
33. Has a tax lien or other collection procedure ever been instituted against you by federal, state, or local authorities? No  
Have you ever defaulted on a student loan? I was fortunate enough to not have student loans.  
Have you ever filed for bankruptcy? No.
34. Have you ever been sued, either personally or professionally, that is, have you ever been named as defendant or respondent in any court of law?  
I have never been sued personally or professionally.
36. Are you now or have you ever been employed as a "lobbyist," as defined by S.C. Code § 2-17-10(13), or have you acted in the capacity of a "lobbyist's principal," as defined by S.C. Code § 2-17-10(14)? No.
37. Since filing with the Commission your letter of intent to run for judicial office, have you accepted lodging, transportation, entertainment, food, meals, beverages, money, or any other thing of value as defined by S.C. Code § 2-17-10(1) from a lobbyist or lobbyist's principal? No.
38. S.C. Code § 8-13-700 provides, in part, that "[n]o public official, public member, or public employee may knowingly use his official office, membership, or employment to obtain an economic interest for himself, a member of his immediate family, an individual with whom he is associated, or a business with which he is associated." Please detail any knowledge you have of any formal charges or informal allegations against you or any other candidate for violations of these provisions.  
I have no knowledge or any formal charges or informal allegations against me for a possible violation of these provisions.
39. S.C. Code § 8-13-765 provides, in part, that "[n]o person may use government personnel, equipment, materials, or an office building in an election campaign." Please detail any knowledge you have of any formal charges or informal allegations against you or any other candidate for violations of these provisions.  
I have no knowledge or any formal charges or informal allegations against me or any other candidate for violations of these provisions.
40. Itemize (by amount, type, and date) all expenditures, other than those for travel and room and board, made by you, or on your behalf in furtherance of your candidacy for the position you seek.  
12-20-08 Stationary/Resume Paper/Envelopes \$151.42.
41. List the amount and recipient of all contributions made by you or on your behalf to members of the General Assembly since the announcement of your intent to seek election to a judgeship.  
I have made no contributions to any member of the General Assembly, nor has anyone on my behalf.

42. Have you directly or indirectly requested the pledge of any member of the General Assembly as to your election for the position for which you are being screened?  
I have not directly or indirectly requested a pledge from any member of the General Assembly, as to my election for which I am being screened.  
Have you received the assurance of any public official or public employee that they will seek the pledge of any member of the General Assembly as to your election for the position for which you are being screened? No.
43. Have you requested a friend or colleague to contact members of the General Assembly on your behalf? No, I have not requested a friend or colleague to contact any member of the General Assembly on my behalf.  
Are you aware of any friends or colleagues contacting members of the General Assembly on your behalf?  
Yes, I am aware that friends and family have contacted members of the General Assembly on my behalf, without my requesting that they do so. They have informed me they contacted people to let them know I was potentially running for a judgeship, and they were seeking only to introduce me to those members of the General Assembly whom they personally knew. They did not attempt to seek a pledge of support for me, or a conditional pledge of support on my behalf. Any contact that was made by my friends/family was done prior to my letter of intent to run as a candidate in this election, and was when I was still deciding whether or not I would indeed make myself a candidate for this election.
44. Have you or has anyone acting on your behalf solicited or collected funds to aid in the promotion of your candidacy?  
I have not solicited funds to aid in the promotion of my candidacy, nor has anyone else done so on my behalf.
45. Have you or has anyone acting on your behalf contacted members of the Judicial Merit Selection Commission about your candidacy or intention to become a candidate?  
In January of this year, I did write Senator McConnell a note, after speaking with him about unrelated personal matters. During our conversation he had asked me to tell my mother hello for him; and I wrote him telling him that I enjoyed catching up with him, I did tell my mother hello, and she said to say the same to him. I closed the note by writing that I may see him again, as I was considering running for a judgeship at some point in the future. That was the extent of any contact I have had with any member of the Judicial Merit Selections commission about my candidacy or intention to become a candidate.
46. List all bar associations and professional organizations of which you are a member and give the titles and dates of any offices you have held in such groups.
- (a) South Carolina Bar Association;
  - (b) Greenville County Bar Association.

47. List all civic, charitable, educational, social, and fraternal organizations of which you are or have been a member during the past five years and include any offices held in such a group, any professional honors, awards, or other forms of recognition received and not listed elsewhere.
- (a) United Way, Women's Leadership Initiative Subcommittee;
  - (b) Faculty member, National College of District Attorneys;
  - (c) Volunteer, Generations Group Home.

48. Provide any other information that may reflect positively or negatively on your candidacy, or which you believe should be disclosed in connection with consideration of you for nomination for the position you seek.

Based on my life experiences to date, I believe that I would be a positive addition to the South Carolina judiciary. I am hard working, intelligent, an independent thinker, even tempered, and compassionate. These qualities I attribute to my upbringing. I grew up an only child with parents who loved me, but divorced when I was 7. My mother primarily raised me, and required that I be independent, studious, and responsible for myself at all times. This was mostly out of necessity for her, since she was a special education teacher in the high school and tutored students for extra money after school hours. She was quick to remind me of the fact that our family was very blessed, with physical and mental capabilities, which so many of the children she taught did not possess. It was important to her that we not waste what we've been given, but use our talents to help other. She stressed thankfulness over selfishness, and still does today.

My father was a pilot in the Air Force, and then moved to Dallas to be a commercial airline pilot after they divorced. He is very methodical, organized and calm. Due to the benefits of his job, I was able to travel with him all over the world, and gain perspective and life lessons that can't be taught in school. I have great respect and appreciation for the United States, and for the luxuries we are afforded here; not simply the material goods, but more importantly our fundamental constitutional rights. As a judge I would always strive to protect those rights that set us apart from other nations, and make us the great nation we are.

In closing, I would do my very best to ensure that I would be an independent, fair and competent judge. I would do my best to enhance and maintain confidence in the legal system by upholding the integrity of the judiciary. I would work diligently and earnestly to resolve matters fairly. I would strive to be like my very first, and best, legal role model, Judge James W. Johnson, Jr. He possessed all of the attributes a judge should, and always made those in his presence feel that their voices were heard and that they were treated fairly.

49. References:

- (a) Robert M. Ariail  
13<sup>th</sup> Circuit Solicitor  
305 E. North Street  
Greenville, SC 29601

- 864-467-8282
- (b) Chrissy T. Adams  
10<sup>th</sup> Circuit Solicitor  
P.O. Box 8002  
Anderson, SC 29622  
864-260-4046
  - (c) The Honorable Edward W. Miller  
305 E. North St.  
Greenville, SC 29601  
864-467-8559
  - (d) David Martin  
204 Cape Charles Drive  
Greenville, SC 29615  
864-616-1273
  - (e) BB&T Branch Manager  
1533 Wade Hampton Blvd.  
Greenville, SC 29609  
864-282-3530

YOUR SIGNATURE WILL BE HELD TO CONSTITUTE A WAIVER OF THE CONFIDENTIALITY OF ANY PROCEEDING BEFORE A GRIEVANCE COMMITTEE OR ANY INFORMATION CONCERNING YOUR CREDIT.

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

s/Kristie (Kris) Bjorndal Hodge

Date: 03/10/09

Kristie B. Hodge  
501 Bridgewater Drive  
Greenville, South Carolina 29615  
(864) 244-7544

Jane O. Shuler, Chief Counsel  
Judicial Merit Selection Commission  
P.O. Box 142  
Columbia, South Carolina 29202

IN RE: Amendment to Judicial Application  
13<sup>th</sup> Circuit, Circuit Court, Seat #3

Dear Ms. Shuler:

Please let this letter serve as notice that I am amending item PDQ 49(c), to replace Judge Miller with Stephanie Pendarvis McDonald, as one of my letters of recommendation. Ms. McDonald's contact information is as follows:

Stephanie Pendarvis McDonald  
3 Wesley Drive  
Charleston, South Carolina 29407  
(843) 556-4045

If you need any further information in this regard, please contact me at the number above, or by cell phone, (864) 201-4860.

Sincerely,

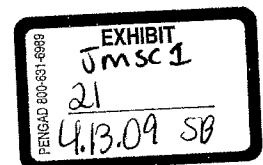
Kristie B. Hodge

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

Circuit Court  
(New Candidate)

Full Name: Kristie Bjorndal Hodge  
Business Address: 13<sup>th</sup> Circuit Solicitor's Office  
Greenville County Courthouse  
305 East North Street, Suite 325  
Greenville, SC 29601  
Business Telephone: 864-467-8647

1. Why do you want to serve as a Circuit Court judge? I would like to continue to serve the public and be an integral part of the legal system in our State. I have devoted my entire legal career to serving the public as an Assistant Solicitor, and have found it extremely rewarding. I believe being elected a resident circuit court judge is the next logical step for me to be able to continue my public service. I would also like to be a judge so that on some level I could make a difference in the lives of the people in my community, by instilling faith in our legal system, so they will know justice can and will be achieved for all parties who seek it.
2. Do you plan to serve your full term if elected? Yes
3. Do you have any plans to return to private practice one day? No, not at this time.
4. Have you met the Constitutional requirements for this position regarding age, residence, and years of practice? Yes. I am 39 years old; I reside in Greenville County and have since 1995; and I have been practicing law since I was admitted to the SC Bar in 1994, with the exception of one year spanning from September 1999 to September 2000, when I was on inactive status with the Bar.
5. What is your philosophy regarding *ex parte* communications? Are there circumstances under which you could envision *ex parte* communications being tolerated? I believe the guidelines for *ex parte* communications are clearly set out in the judicial canons, specifically Canon 3 B (7). As a judge I would follow the Judicial Code of Conduct. In general I would discourage any *ex parte* communications; however, if they became necessary, I would allow those *ex parte* communications that are for scheduling or administrative purposes, or emergencies that do not deal with the substantive matters of issues on the merits of a case; and where I believe no party would gain any procedural or tactical advantage as a result of the communication; and I would promptly advise the other side of the substance of the *ex parte* communication and allow opportunity to respond. (Canon 3 B (7)(a))



I believe ex parte communications are allowable if I may need to obtain the advice of a disinterested expert on the law, applicable to proceedings before me; if I give notice to the parties of the person consulted and the substance of the advice, and afford both parties a reasonable opportunity to respond. Where possible I would invite the expert to file brief amicus curiae. (Canon 3 B (7)(b))

I believe ex parte communications are allowable where I may need to consult with court personnel, whose functions are to aid me in carrying out my adjudicative responsibilities; or with other judges. (Canon 3 B (7)(c))

I would allow ex parte communications, with the consent of both parties, if it would assist them in mediating or settling the matters pending before me. (Canon 3 B (7)(d)).

Lastly, I would initiate or consider any ex parte communications when they are expressly authorized by law, such as determining fees and expenses for indigent capital defendants. (Canon 3 B (7)(e)) Unless an ex parte communication fell into one of these clearly defined areas, I would not allow it, so as to avoid the appearance of impropriety or partiality to one side or the other.

6. What is your philosophy on recusal, especially in situations in which lawyer-legislators, former associates, or law partners are to appear before you? In general, the guidelines for recusal are set forth in the Judicial Canons, specifically Canon 3 E, and I would follow the Judicial Code of Conduct in all matters that would call into question my impartiality in a matter pending before me. The goal or objective of the judiciary should be to uphold the integrity of the legal system and instill confidence in all parties coming before it. Therefore, I would take these matters very seriously, and would recuse myself from cases where appropriate. Specifically in the instances where lawyer-legislators may appear before me, I do not believe I would need to recuse myself automatically, unless one of the parties could articulate why they believe I could not be impartial. I would show no favoritism to the lawyer-legislator and would support my rulings with case law, statute or procedural rules, to avoid the appearance of any favoritism. Due to the fact that all Circuit Court judges are elected by the legislature, I believe it would be out of a sense of necessity that I not recuse myself just based on that fact alone. Again, I would ask that the party requesting my recusal articulate why they feel they may be treated unfairly, and if I deemed it appropriate, I would then recuse myself.

As to former associates or law partners, Canon 3 E (b) is on point for me. I have been an Assistant Solicitor my entire legal career, aside from the one year where I clerked for a Circuit Court judge. Therefore, I do not believe I will need to recuse myself on any cases where the 13<sup>th</sup> Circuit Solicitor's Office is a party to the case, unless it is a case that I personally worked on previously, or a case where I consulted with the



attorney assigned the case so that I was aware of the intimate details of the case.

7. If you disclosed something that had the appearance of bias, but you believed it would not actually prejudice your impartiality, what deference would you give a party that requested your recusal? Would you grant such a motion? I would follow the Judicial Code of Conduct as it relates to disqualification, specifically set forth in Canon 3 E. I would give great deference to the party requesting my recusal. As I stated above, the main goal or objective of the judiciary should be to uphold the integrity of the legal system and instill faith in the legal system, so that all parties to an action feel that they have been treated fairly and equally. After my disclosure of a fact that may bear on the appearance of my impartiality, I would ask the party requesting my recusal to state all grounds and concerns on the record, and then out of due deference for the integrity of the legal system, I would recuse myself.
8. How would you handle the appearance of impropriety because of the financial or social involvement of your spouse or a close relative? As stated in my answer to number 7, I would follow the Judicial Code of Conduct as it relates to disqualification, specifically set out in Canon 3 E (1)(c) and (d). First, I would fully disclose on the record, to all parties, the nature of the social or financial relationship between myself, my spouse or relative, as it relates to the matter before me. Additionally, I would disclose whether or not the financial involvement of my spouse or family, in the immediate action, was a de minimis interest in the proceedings. If the financial interest was de minimis, and full disclosure was made, I would then ask the parties and their lawyers to consider, outside of my presence, whether they wish for me to disqualify myself, or they wish to waive disqualification. If all parties agree that I should not be disqualified, and I am willing and feel I can be a fair and impartial judge in the matter, then I would participate in the proceedings before me. The agreement would then be incorporated in the record of the proceeding. If the financial interest my spouse or family member had in the matter was more than de minimis, and would be substantially affected by the proceedings, then I feel it would be best to recuse myself from the matter to avoid the appearance of impropriety.
9. What standards would you set for yourself regarding the acceptance of gifts or social hospitality? I would follow the Judicial Code of Conduct, specifically Canon 4 D (5), as it relates to the acceptance of gifts. I would not accept, and I would urge members of my family not to accept gifts, aside from ordinary social hospitality, and gifts from friends or relatives for special occasions which were fairly commensurate with the occasion and relationship. I certainly would not accept any gifts if I felt they would reasonably be perceived as intending to influence me in the performance of my judicial duties, specifically if the donor is a party or person who has come before me or is likely to come before me. In

addition, if I was to receive a gift valued at more than \$150, I would report it in the same manner as I would report compensation for extra-judicial activities.

10. How would you handle a situation in which you became aware of misconduct of a lawyer or of a fellow judge? I would follow the Judicial Code of Conduct, specifically Canon 3 D. If I received information indicating a substantial likelihood that a fellow judge or a lawyer has committed a violation of Judicial Code or the Rules of Professional Conduct contained in Rule 407, SCACR, I would take the appropriate action. That action may be direct communication with the judge or lawyer, or other direct action available, or report it to the appropriate authority, agency or body. If I have personal knowledge that a judge or lawyer has committed a violation of the Judicial Code or the Rules of Professional Conduct, that raises a substantial question as to their honesty, trustworthiness or fitness for office or as a lawyer, I will inform the appropriate authority immediately.
11. Are you affiliated with any political parties, boards or commissions that, if you were elected, would need to be re-evaluated? I am not affiliated with any political parties, boards or commissions.
12. Do you have any business activities that you would envision remaining involved with if elected to the bench? I currently do not have any separate business activities that would conflict with my position if I was elected to the bench.
13. If elected, how would you handle the drafting of orders? I would do my best to dispose of all judicial matters before me promptly, efficiently and fairly, which would include the drafting of orders. To assist me in handling the court's business of drafting orders in civil cases, after ruling on a matter, I may ask the prevailing attorney in the case to prepare a proposed order. I would then ask them to submit and discuss the proposed order with opposing counsel. After both parties have agreed to the substance of the proposed order, I would review it and make any changes I deemed necessary, and sign the order. It would then be filed with the Clerk's Office, and certified copies would be sent to all parties. They would all be subject to a time line imposed by the court, which would require all this to be done in a timely manner. If there are situations where it is not appropriate to have the attorneys on a case draft a proposed order, then I would prepare the order myself, in a timely manner. In criminal cases, the majority of orders requested have specific forms to follow, and only require minimal input of information. I would promptly draft and sign these orders in a timely manner.
14. If elected, what methods would you use to ensure that you and your staff meet deadlines? I believe judges must be extremely organized and make efficient use of their time. As an Assistant Solicitor presently managing 300-500 warrants at any given time, I have become very organized and diligent. I have developed a system of setting deadlines

for myself ahead of those imposed by my employer or the Case Management System. I calendar all activities that are due and run reports to keep me updated on the status of those activities. As part of a team in the solicitor's office, I also monitor and check in on my investigator and victim advocate, to make sure they are conducting their duties as they relate to my cases, in a timely manner. If elected, I believe my organizational skills will serve me well in ensuring that I, and my staff, meet deadlines.

15. What is your philosophy on "judicial activism," and what effect should judges have in setting or promoting public policy? I do not believe that judges should use their position to be "activists" for any political causes or public policy causes. If elected, as a judge I would follow the laws in place at that time, whether they are statutory, procedural or case law; and would keep my personal opinions to myself. I would also refrain from engaging in any activities that may be perceived as me using my position as a judge to influence people one way or another in any public policy area.
16. Canon 4 allows a judge to engage in activities to improve the law, legal system, and administration of justice. If elected, what activities do you plan to undertake to further this improvement of the legal system? I believe that the most important thing a judge can do to improve the administration of justice is to be accessible and available to the parties coming before her. As most people are aware, on both the civil docket and the criminal docket, there is a back log of cases. A judge must be accessible, both in chambers and on the bench, to help the dockets move. Without a judge who is willing to work hard, justice comes to a screeching halt. As an Assistant Solicitor, I can not move any of my cases when a judge is unavailable during his or her assigned term. It is extremely important for judges who are presiding over matters to be on the bench to properly and expeditiously handle those matters.

In General Sessions, for example, if a judge is assigned to preside over plea court (which is the avenue for disposition of 90% of all criminal cases); nothing can be done unless the judge is on the bench. I would make every effort to maximize my time on the bench, by starting promptly in the morning, taking brief recesses and appropriate lunch breaks. In addition, I would be willing to stay each day until all the business before the court has been handled.

In addition, in Common Pleas, I would attempt to maximize the use of pretrial conferences and status conferences, pursuant to Rule 16, SCRCP, to help move a case along. I would be willing to have status conferences for criminal cases also, if the Solicitor's Office and the Defense Bar would agree to them.

In short, and most importantly, I would attempt to lead parties by example in exhibiting a strong work ethic, so the administration of justice can be accomplished.

17. Do you feel that the pressure of serving as a judge would strain personal relationships (i.e. spouse, children, friends, or relatives)? How would you address this? If elected, there would be some additional strain due to the increased nature of the responsibilities of the office and wanting to uphold them to the best of my ability. Currently as an Assistant Solicitor, I do feel a great obligation to act in the interest of justice and serve the public properly, and I have utilized certain things to help relieve that pressure and stress. First, I believe having a strong Christian faith helps me adjust to the challenges that life brings personally and professionally. I attend a weekly bible study and church, which grounds me and give me the strength to do my job to the best of my ability. I also have a very loving and supportive husband and daughter. Without a stable home life, the stresses of any job can be divisive to a family. My husband is self-employed, which gives him flexibility to help out with our daughter, and to help me when ever necessary. Lastly, I learned early in life that exercising was the key to keeping mentally and physically fit. I have always made exercise a priority, and scheduled it into my daily routine 3-4 times each week. I believe with a strong faith in God, a supportive family and sufficient opportunity to exercise, I will be able to cope with any additional stresses election to this office will bring with it.
18. The following list contains five categories of offenders that would perhaps regularly appear in your court. Discuss your philosophy on sentencing for these classes of offenders. First and foremost, I would only sentence under the established time frames permitted by statute or common law. Secondly, as an Assistant Solicitor for the past 14 years, I have come into contact with all type of defendants listed below. In Greenville County, the defense bar has become very accustomed to the Solicitor's Office making sentence recommendations in almost every case that comes before the Court to plead guilty. Thus, I believe I can summarize and answer this question the same way as to each category you have listed. In my opinion, there is virtually no way to give a blanket sentence or range of sentence for these listed categories. There are several factors to consider in each individual case, even within the same category. Specifically, I would like to know the age, education level, work experience, level of any physical or mental disabilities, and the criminal history of the defendant. I would like to know with some amount of detail, exactly what happened in each case before me. I would like to know if anyone was physically injured, and if so the degree and permanence of the injury. I would like to know the victim's input as to any sentence; and where appropriate, the arresting officer's opinion as to any sentence. I would take into consideration any possibility for rehabilitation of the defendant, and the best method for achieving rehabilitation. All of these factors would then be weighed and

any variety of sentences might be given in each of the following classifications, based upon the combination of those factors.

- a. Repeat offenders: see above
  - b. Juveniles (that have been waived to the circuit court): see above
  - c. White collar criminals: see above
  - d. Defendants with a socially and/or economically disadvantaged background: see above
  - e. Elderly defendants or those with some infirmity: see above
19. Are you involved in any active investments from which you derive additional income that might impair your appearance of impartiality? I am not involved in any active investments from which I derive additional income.
20. Would you hear a case where you or a member of your family held a *de minimis* financial interest in a party involved? Again, I would look to the Judicial Code of Conduct, specifically Canon 3 E (1). If after disclosing to all parties the fact that I, or a member of my family, had a *de minimis* financial interest in some part of the matter involved, I would allow the parties to discuss, outside of my presence, whether or not they wanted me to disqualify myself from the matter. If they all agreed that they did not want me to disqualify myself, then I would make that remitter of disqualification a part of the record in the proceeding and continue to preside over the proceeding, unless for some reason I felt that I could not be impartial. If I felt I could not be impartial in the matter, I would recuse myself.
21. Do you belong to any organizations that discriminate based on race, religion, or gender? No
22. Have you met the mandatory minimum hours requirement for continuing legal education courses? Yes
23. What do you feel is the appropriate demeanor for a judge? A judge should be dignified, courteous, patient, and respectful to all parties appearing before her, whether they are attorneys, witnesses, jurors or courthouse personnel. A judge should maintain the integrity and decorum required in a court of law without being arrogant or rude. A judge should not only be respectful to the people before her, but be respectful of the law, the legal system and her position in that system.
24. Would the rules that you expressed in your previous answer apply only while you are on the bench or in chambers, or would these rules apply seven days a week, twenty-four hours a day? I would strive to apply these rules to my life, seven days a week, twenty-four hours a day. Even when a judge is not in the courtroom, she is still a prominent person in the community and must conduct herself with the utmost respect for her position, and for the legal system as a whole.
25. Do you feel that it is ever appropriate to be angry with a member of the public, especially with a criminal defendant? Is anger ever appropriate in dealing with attorneys or pro se litigants? Anger is never appropriate in

the courtroom. A judge can be stern but respectful with any party or person who is before the court, even if that person may not be showing proper respect for the Court.

26. How much money have you spent on your campaign? If it is over \$100, has that amount been reported to the House and Senate Ethics Committees? I have spent \$151.42 on stationary for this campaign. As of this date, I have not reported that to the House and Senate Ethics Committees, but will do so more than 15 days before the election.
27. If you are a sitting judge, have you used judicial letterhead or the services of your staff while campaigning for this office?  
Not applicable
28. Have you sought or received the pledge of any legislator prior to this date? No, I have not sought or received the pledge of any legislator.
29. Have you sought or been offered a conditional pledge of support by any legislator pending the outcome of your screening?  
No, I have not been offered a conditional pledge of support by any legislator, pending the outcome of screening.
30. Have you asked any third parties to contact members of the General Assembly on your behalf before the final and formal screening report has been released? Are you aware of any friends or colleagues contacting members of the General Assembly on your behalf? I have not asked any third parties to contact members of the General Assembly on my behalf before the final and formal screening report has been released. I am aware that some of my friends and family have contacted members of the General Assembly to tell them I was considering running for a judgeship in Greenville. I did not request them to do so; they did it on their own. They did not attempt to secure pledges of support or conditional pledges of support; they only sought to introduce me to the Representative or Senator.
31. Have you contacted any members of the Judicial Merit Selection Commission? I did speak with Senator McConnell in January, before I sent in my letter of intent to become a candidate in this election. We spoke about unrelated personal matters. My mother was married to his cousin for 10 years. After we talked, I wrote him a note telling him it was good to talk to him again after so long, and that I had told my mother hello from him. She wanted me to tell him the same. I closed the note by saying I may see him again at some point because I was thinking about running for a judgeship in the future. That was the extent of the contact that I have had with a member of the Judicial Merit Selection Commission.
32. Are you familiar with the 48-hour rule, which prohibits a candidate from seeking pledges for 48 hours after the draft report has been submitted?  
Yes

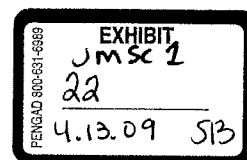
I HEREBY CERTIFY THAT THE ANSWERS TO THE ABOVE QUESTIONS ARE TRUE AND COMPLETE TO THE BEST OF MY KNOWLEDGE.

s/Kristie Bjorndal Hodge  
Sworn to before me this 10<sup>th</sup> day of March, 2009.  
Notary Public for S.C.  
My Commission Expires: 8/30/2009\_\_\_\_\_

**JUDICIAL MERIT SELECTION COMMISSION  
PERSONAL DATA QUESTIONNAIRE**

Court, Position, and Seat # for which you are applying: Circuit Court, 13<sup>th</sup> Judicial Circuit, Seat 3

1. NAME: Mr. Benjamin L. Shealy  
BUSINESS ADDRESS: Post Office Box 516, Greenwood, SC 29648  
TELEPHONE NUMBER: (office): (864) 942-8807
  
2. Date of Birth: 1964  
Place of Birth: Augusta, Georgia
3. Are you a citizen of South Carolina? Yes.  
Have you been a resident of this state for at least the immediate past five years? Yes
5. Family Status: Married August 9, 2003, to Danielle Diana Daggett Shealy. Divorced in December 1999, Lexington County family Court, no fault. Three children.
6. Have you served in the military?  
June 1986 to December 1989  
Army  
Captain  
XXX-XX-XXXX  
Retired  
Honorable
7. List each college and law school you attended, including the dates of your attendance, the degrees you received, and if you left an institution without receiving a degree, the reason for your departure.  
(a) University of South Carolina, 1982 – 1986, BA  
(b) Campbell School of Law, 1992 – 1994, JD  
(c) University of South Carolina, 1994 – 1995  
(d) School of Law (3<sup>rd</sup> year transient student)
8. List the states in which you have been admitted to practice law and the year of each admission. Also list any states in which you took the bar exam but were never admitted to the practice of law. If you took the bar exam more than once in any of the states listed, please indicate the number of times you took the exam in each state.  
South Carolina, 1995
9. List the significant activities in which you took part during your attendance at college, graduate, and law school. Give the dates you were involved in these activities and list any leadership positions you held.  
Undergraduate:  
(a) Delta Upsilon Fraternity, 1983 – 1986  
(b) ROTC, 1983 – 1986  
Law School:  
(a) Student Bar Representative, 1992 – 1993  
(b) Moot Court Competition, 1992 – 1993  
(c) Appellate Advocacy Comp, 1992 – 1993





(d) Case Summary Writer, 1992 – 1993

(e) (Law School Newspaper)

10. Describe your continuing legal or judicial education during the past five years. Include only the title and date of any continuing legal or judicial education course completed.

	<u>Conference/CLE Name</u>	<u>Date(s)</u>
(a)	Hot Tips from the Best Domestic....	09/19/2003;
(b)	Master-In-Equity Bench and Bar	10/17/2003;
(c)	Complex Issues in Divorce for ....	05/10/2004;
(d)	Advanced Cross-Examination	05/14/2004;
(e)	Keys to Successful Pre-Trial Practice	05/27/2004;
(f)	Newly Adopted Medical Malpractice ....	10/14/2005;
(g)	2006 Annual Solicitors Conference	09/24/2006;
(h)	Cross-Examination	05/21/2007;
(i)	2007 Annual Solicitor's Conference	09/23/2007;
(j)	2008 Annual Solicitor's Conference	09/28/2008

11. Have you taught law-related courses or lectured at bar association conferences, educational institutions, or continuing legal or judicial education programs? No

12. List all published books and articles you have written and give citations and the dates of publication for each. N/A

13. List all courts in which you have been admitted to practice and list the dates of your admission. Give the same information for administrative bodies that require a special admission to practice.

(a) South Carolina State Court, 1995

(b) Federal Court – District of SC, 2002

14. Describe chronologically your legal experience since graduation from law school and include a list of all law firms with which you have been associated. Describe the general character of your practice and divide it into periods with dates if its character has changed over the years.

(a) Eighth Circuit Solicitor's Office, 2006 – Present, Criminal Law

(b) Babb and Brown, P.A., 2002 – 2005, General Litigation

(Family law, construction law, real estate, personal injury, probate, etc.)

(c) Thirteenth Circuit Solicitor's Office, 1999 – 2001, Criminal Law

(d) Eighth Circuit Solicitor's Office, 1997 – 1999, Criminal Law

(e) W. Frank Partridge, Jr., P.A., 1995 – 1997, Primarily Family Law

If you are a judge and are not seeking a different type of judgeship, the following questions are inapplicable:

- (b) If you are a candidate for Circuit Court, please provide a brief written description of your experience in criminal matters, including any cases handled over the past five years and include a brief description of the issues involved. Further, please provide a brief written description of your experience in civil matters, including any cases handled over the past five years and include a brief description of the types of matters handled, issues involved, and procedural history. Please include information such as the primary areas in civil court in which you practice, whether you represent plaintiffs or defendants, or both. You may go back further than five years if you feel it would assist the Commission with its assessment of your experience. If you lack experience in an area, describe how

your background has prepared you to preside over such matters as a Circuit Court Judge, or how you would compensate for your lack of experience in this area.

Over the last five years I have handled almost every type of criminal case on the state level. As an assistant, and then deputy solicitor I prosecuted cases ranging from driving under suspension to capital murder. As a defense attorney I defended a number of criminal cases in General Sessions Court, Magistrate Court and Municipal Court. In handling these cases I have been involved in pre-trial hearings, such as *Jackson v. Denno*, and *Blair* hearings; served notices of intent to seek life without the possibility of parole and death; and almost every other possible motion in criminal court. As a solicitor I am expected to know every aspect of criminal court and be able to competently address those issues on a moments notice. During my years as a prosecutor I have had the opportunity to handle all issues involved in a criminal proceeding.

While working in the law firm of Babb and Brown I was given the opportunity to become involved in several different areas of civil practice. The firm was one in which the senior partner took the position that if it came in the door we would handle the case if at all possible. Because of the attitudes of the partners I was able to gain experience which may not have been possible with a larger firm. During the four years I was involved in construction law, personal injury, social security, medical malpractice, family law, contract, and real estate law. While I ultimately never tried a civil case I did handle every aspect of a civil case with that exception this included filing complaints, answers, interrogatories, depositions, pre-trial conferences and mediations. Since the firm handled cases primarily in Greenville county I have had a great deal of experience with mediations.

15. What is your rating in Martindale-Hubbell?

In searching the on-line directory for Martindale-Hubbell I was unable to locate a rating for me. I assume that the publishers did not have enough input from the legal community to provide such a rating.

Retired judges/justices and judges/justices applying for reelection to their current position may omit Questions 16-21. If a candidate is seeking a judgeship different than his or her current position, Questions 16-21 should be answered based on experience prior to serving on the bench.

16. What was the frequency of your court appearances during the last five years?  
(a) federal: 0%;  
(b) state: 100%.
17. What percentage of your practice involved civil, criminal, and domestic matters during the last five years?  
(a) civil: 20%;  
(b) criminal: 50%;  
(c) domestic: 30%.
18. What percentage of your practice in trial court during the last five years involved matters that went to a jury, including those that settled prior to trial?  
(a) jury: 35%;  
(b) non-jury: 65%.

Did you most often serve as sole counsel, chief counsel, or associate counsel in these matters? Sole counsel, although I often serve as co-counsel with younger solicitors in an effort to provide some courtroom training.

19. List five of the most significant litigated matters you have personally handled in either trial or appellate court or before a state or federal agency. Give citations if the cases were reported and describe why these matters were significant.

(a) Murder of a Clemson University student

This case was significant because it gave me my first real insight into how the death of one person can have far reaching impact on the community. In this case there was most obviously an impact on the family especially his father but there was an impact on the University community. The University was thrust into a situation in which a well liked student was killed extremely close to the campus which created concerns about overall student safety. Finally, the town of Clemson was impacted by the death because it called into question the safety within the town.

(b) Will contest case

This case was significant because it represented the first time I had been involved in a case of this nature. While handling the case I was struck by the arcane laws related to contesting a will. Additionally, it was startling to find out how steeped in emotions the case was and how those emotions really drove the litigation. Finally, it was the first time that the firm had a mediation agreement set aside and we had to relitigate all the issues. It was also apparent in this case how the courts had not carefully considered all issues when instituting mediation and how that failure resulted in an injustice for all involved.

(c) Murder of a ten month old child

This was significant because it highlighted the many failures of the "system" to protect the child. Also important was the fact that one of the caregivers was mentally challenged which led indirectly to the death of the child. It also brought home the point that when dealing with criminal defendants it is important to get past the initial picture and delve into all of the facts to determine how justice is best served.

(d) Death Penalty case

This case is significant in that it is allowing me to get a true understanding of how the families of both the defendant and victim are affected. Additionally, it has provided me with experience in handling the administrative aspects of a capital case and the many aspects of a death penalty case which most attorneys do not get the opportunity to address.

(e) Social Security appeal

This was significant because it was the first time I had the opportunity to prepare this type of case. I was struck by the seemingly absurd result which resulted in the lockstep application of federal rules. My client who was obviously in no condition to work in any type of job was forced to go through months of endless paperwork prior to getting the hearing. During those months his family suffered great financial hardship which included the loss of their home. When the hearing finally occurred it was clear to the judge that there was a mistake in the original finding and he quickly granted the appeal.

20. List up to five civil appeals you have personally handled. Give the case name, the court, the date of decision, and the citation if the case was reported. I have not handled any civil appeals.
21. List up to five criminal appeals that you have personally handled. Give the case name, the court, the date of decision and the citation if the case was reported. The only criminal appeals which I have handled are appeals from magistrate and municipal level cases to the circuit court.
22. Have you ever held judicial office? If so, list the periods of your service, the courts involved, and whether you were elected or appointed. Describe the jurisdiction of each of the courts and note any limitations on the jurisdiction of each court. I served as an assistant municipal court judge for the city of Newberry. This was an appointed position and my primary job was to handle morning bond hearings. I held this position from approximately February 1997 through November 1997.
23. If the answer to question 22 is yes, describe or list five of your most significant orders or opinions and give the citations if they were reported. N/A
24. Have you ever held public office other than judicial office? If so, list the periods of your service, the office or offices involved, and whether you were elected or appointed. Also, state whether or not you have timely filed your report with the State Ethics Commission during the period you held public office. If not, were you ever subject to a penalty? No
25. List all employment you had while serving as a judge (whether full-time or part-time, contractual or at will, consulting or otherwise) other than elected judicial office. Specify your dates of employment, employer, major job responsibilities, and supervisor. During the time I served as an assistant municipal court judge I worked as an associate with the law firm of W. Frank Partridge, Jr. As an associate I primarily handled the drafting of Family Court pleadings. Mr. Partridge was my supervisor.
26. Have you ever been an unsuccessful candidate for elective, judicial, or other public office? No
27. Have you ever been engaged in any occupation, business, or profession other than the practice of law, teaching of law, or holding judicial or other public office
  - (a) United States Army, Military Intelligence Officer , 1986 – 1989
  - (b) S.C. Department of Highways and Public Transportation, 1990 – 1991  
(Customer Service in Drivers Records Division)
  - (c) California Dreaming Restaurant, Bartender , 1991 - 1992
28. Are you now an officer or director or involved in the management of any business enterprise? No
29. A complete, current financial net worth statement was provided to the Commission.
30. Describe any financial arrangements or business relationships you have, or have had in the past, that could constitute or result in a possible conflict of interest in the position you seek. Explain how you would resolve any potential conflict of interest. None
31. Have you ever been arrested, charged, or held by federal, state, or other law enforcement authorities for violation or for suspicion of violation of any federal law or regulation, state law or regulation, or county or municipal law, regulation, or ordinance, or any other law, including another country's law? No
32. Have you, to your knowledge, ever been under federal, state, or local investigation for possible violation of a criminal statute? No

33. Has a tax lien or other collection procedure ever been instituted against you by federal, state, or local authorities? Have you ever defaulted on a student loan? Have you ever filed for bankruptcy? No
34. Have you ever been sued, either personally or professionally, that is, have you ever been named as defendant or respondent in any court of law? No
35. Have you ever, in South Carolina or any other jurisdiction, as a lawyer, judge, or other professional, been sanctioned for lawyer, judicial, or other professional misconduct or been found to have committed such misconduct? No
36. Are you now or have you ever been employed as a "lobbyist," as defined by S.C. Code § 2-17-10(13), or have you acted in the capacity of a "lobbyist's principal," as defined by S.C. Code § 2-17-10(14)? No
37. Since filing with the Commission your letter of intent to run for judicial office, have you accepted lodging, transportation, entertainment, food, meals, beverages, money, or any other thing of value as defined by S.C. Code § 2-17-10(1) from a lobbyist or lobbyist's principal? No
38. S.C. Code § 8-13-700 provides, in part, that "[n]o public official, public member, or public employee may knowingly use his official office, membership, or employment to obtain an economic interest for himself, a member of his immediate family, an individual with whom he is associated, or a business with which he is associated." Please detail any knowledge you have of any formal charges or informal allegations against you or any other candidate for violations of these provisions. I have no knowledge of any such actions.
39. S.C. Code § 8-13-765 provides, in part, that "[n]o person may use government personnel, equipment, materials, or an office building in an election campaign." Please detail any knowledge you have of any formal charges or informal allegations against you or any other candidate for violations of these provisions. I have no knowledge of any such actions.
40. Itemize (by amount, type, and date) all expenditures, other than those for travel and room and board, made by you, or on your behalf in furtherance of your candidacy for the position you seek. None
41. List the amount and recipient of all contributions made by you or on your behalf to members of the General Assembly since the announcement of your intent to seek election to a judgeship. None
42. Have you directly or indirectly requested the pledge of any member of the General Assembly as to your election for the position for which you are being screened? Have you received the assurance of any public official or public employee that they will seek the pledge of any member of the General Assembly as to your election for the position for which you are being screened? No
43. Have you requested a friend or colleague to contact members of the General Assembly on your behalf? Are you aware of any friends or colleagues contacting members of the General Assembly on your behalf? No
44. Have you or has anyone acting on your behalf solicited or collected funds to aid in the promotion of your candidacy? If so, please specify the amount, solicitor, donor, and date of the solicitation. No
45. Have you or has anyone acting on your behalf contacted members of the Judicial Merit Selection Commission about your candidacy or intention to become a candidate? No

46. List all bar associations and professional organizations of which you are a member and give the titles and dates of any offices you have held in such groups.  
(a) South Carolina Bar, 1995 to present
47. List all civic, charitable, educational, social, and fraternal organizations of which you are or have been a member during the past five years and include any offices held in such a group, any professional honors, awards, or other forms of recognition received and not listed elsewhere.  
(a) University Lutheran Church, Clemson, South Carolina, Member  
(b) Trinity Lutheran Church, Greenville, South Carolina, Member
48. Provide any other information that may reflect positively or negatively on your candidacy, or which you believe should be disclosed in connection with consideration of you for nomination for the position you seek. None
49. List the names, addresses, and telephone numbers of five persons, including your banker, from whom references could be obtained.  
(a) Chris Heavner  
111 Sloan Street Clemson, SC  
(864) 654-4232  
(b) Cheryl Summers  
104 Evergreen Drive  
Clemson, SC  
(Unlisted)  
(c) Cindy Sanders  
178 Riggins Bridge Road  
Liberty, SC  
(864) 843-6825  
(d) Robert Miles  
2619 Augusta Street  
Greenville, SC  
(864) 232-8510  
(e) Bank of America  
323 Main Street  
Greenwood, SC  
(864) 942-1657

YOUR SIGNATURE WILL BE HELD TO CONSTITUTE A WAIVER OF THE CONFIDENTIALITY OF ANY PROCEEDING BEFORE A GRIEVANCE COMMITTEE OR ANY INFORMATION CONCERNING YOUR CREDIT. I HEREBY CERTIFY THAT MY ANSWERS ARE TRUE AND COMPLETE TO THE BEST OF MY KNOWLEDGE.

S/ Benjamin Shealy  
Date: 03/13/09

*The Law Offices of  
Zimmerman & Shealy, LLC*

Mindy W. Zimmerman

*The Griffith Law Building*

Benjamin L. Shealy

1207 Friend Street

Post Office Box 1207

Telephone: (803) 321-0000

Newberry, South Carolina, 29108

Fax: (803) 321-0407

1 April 2009

J. J. Gentry, Esquire  
Staff Attorney  
Senate Judiciary Committee  
304 Gressette Building  
Post Office Box 142  
Columbia, South Carolina 29202

Re: Amendments to PDQ and Sworn Statement

Dear Mr. Gentry:

Please be aware that as of 1 April 2009 some of the personal information on my Personnel Data Questionnaire needs to be updated. The correct information is as follows:

Business Address: 1207 Friend Street  
Newberry, South Carolina 29108  
Mailing Address: Post Office Box 1207  
Newberry, South Carolina 29108

Business Telephone: (803) 321-0000  
Business Facsimile: (803) 321-0407

Additionally, when I picked up my letters of reference I noticed that Mrs. Summers husband Josh actually prepared the letter as opposed to Mrs. Summers although he does note her opinions in the letter.

Finally, I noticed that on question 2 of the sworn statement I incorrectly indicated that I would not serve my entire term if elected. I fully intend to serve my entire term if elected. I apologize for any misunderstanding that this may have caused.

Thank you for your assistance in this matter.

Sincerely,

Benjamin L. Shealy

\* Criminal Defense \* Personal Injury \* Worker's Compensation \* Domestic \* Wills \* Real Estate \* Corporations \*

*The Law Offices of  
Zimmerman & Shealy, LLC*

Mindy W. Zimmerman

*The Griffith Law Building*

Benjamin L. Shealy

1207 Friend Street

Post Office Box 1207

Telephone: (803) 321-0000

Newberry, South Carolina, 29108

Fax: (803) 321-0407

---

9 April 2009

Jane Shuler, Esquire  
304 Gressette Building  
Post Office Box 142  
Columbia, South Carolina 29202

Re: Answer to question 32 Ethics Statement

Dear Ms. Shuler:

I recently received an e-mail from J. J. Gentry indicating that I had forgotten to answer question 32 of the Ethics Statement. I apologize for the oversight. The answer to the question is YES, I am aware of the 48 hour rule.

Thank you for your assistance in getting this information to the committee members.

Sincerely,

Benjamin L. Shealy

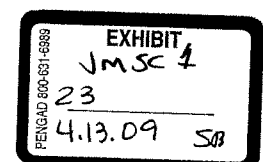


JUDICIAL MERIT SELECTION COMMISSION  
Sworn Statement to be included in Transcript of Public Hearings

Circuit Court  
(New Candidate)

Full Name: Benjamin Lester Shealy  
Business Address: 600 Monument Street  
Suite 203, Park Plaza  
Post Office Box 516  
Greenwood, South Carolina 29648  
Business Telephone: (864) 942-8807

1. Why do you want to serve as a Circuit Court judge? I would like to serve my home state in a manner in which I believe my background and experience will provide the greatest good. I would like to be a positive impact on the state and provide justice for our citizens.
2. Do you plan to serve your full term if elected? No
3. Do you have any plans to return to private practice one day? No
4. Have you met the Constitutional requirements for this position regarding age, residence, and years of practice? Yes
5. What is your philosophy regarding *ex parte* communications? Are there circumstances under which you could envision *ex parte* communications being tolerated? I cannot envision any circumstance in which it would be appropriate for one party to discuss a case with a judge without the input of opposing counsel. However, if a situation arose in which the party seeking to *ex parte* the judge had spoken with opposing counsel and there were assurances made to the judge (i.e. confirmation on opposing counsel's letterhead or direct telephone contact with opposing counsel prior to the discussion) there may be a rare instance in which it would be tolerated.
6. What is your philosophy on recusal, especially in situations in which lawyer-legislators, former associates, or law partners are to appear before you? I believe that if there is a chance of an appearance of impropriety may exist then the judge should recuse himself. Judges should make every effort to insure public confidence in the judiciary. This includes assuring the public that decisions are made free from self-interest, bias, or prejudice.
7. If you disclosed something that had the appearance of bias, but you believed it would not actually prejudice your impartiality, what deference would you give a party that requested your recusal? Would you grant such a motion? I would give great deference to the party making the motion. The question is not really about my beliefs in my own impartiality but rather how the public perceives it. If the public believes there is prejudice or bias they will not be convinced otherwise. I would grant the motion.



8. How would you handle the appearance of impropriety because of the financial or social involvement of your spouse or a close relative? If, after I had disclosed the financial or social involvement, I was asked to recuse myself I would do so.
9. What standards would you set for yourself regarding the acceptance of gifts or social hospitality? I believe the best standard is to refuse all gifts or social hospitality.
10. How would you handle a situation in which you became aware of misconduct of a lawyer or of a fellow judge? I would immediately report that lawyer or judge to the office of disciplinary counsel.
11. Are you affiliated with any political parties, boards or commissions that, if you were elected, would need to be re-evaluated? No
12. Do you have any business activities that you would envision remaining involved with if elected to the bench? No
13. If elected, how would you handle the drafting of orders? I would ask the prevailing party to draft the order and send it to opposing counsel for review. When both counsel agreed that the order fully reflected all rulings I would ask that it be submitted with documentation of the parties agreement. If counsel could not agree I would draft the order based upon my notes from the case and a review of the transcript.
14. If elected, what methods would you use to ensure that you and your staff meet deadlines? I would have a multi-layer ticker system (i.e. computer, dual calendar, deadline file) that staff would be required to maintain. I would likewise have a system in place to track staff members compliance with the system.
15. What is your philosophy on "judicial activism," and what effect should judges have in setting or promoting public policy? I do not believe it is the role of the judiciary to set public policy therefore I do not agree with judicial activism. Should the legislature pass legislation that subsequently was challenged in court I would make a decision based on my understanding of the law and constitution.
16. Canon 4 allows a judge to engage in activities to improve the law, legal system, and administration of justice. If elected, what activities do you plan to undertake to further this improvement of the legal system? I would spend most of my efforts in teaching. I believe I could best serve the legal community and South Carolina by actively participating in CLE's, seminars and other events designed to promote awareness and understanding of our judicial system and laws.
17. Do you feel that the pressure of serving as a judge would strain personal relationships (i.e. spouse, children, friends, or relatives)? How would you address this? I am sure that there would be an initial transition period which would cause some strains within the family. I believe my wife and I have an excellent marriage and that we could work together to insure our relationship as well as the relationship with out children is not damaged in any way. I do not believe there would be any strain on my relationship with friends or family.
18. The following list contains five categories of offenders that would perhaps regularly appear in your court. Discuss your philosophy on sentencing for these classes of offenders.

a. Repeat offenders: These offenders have shown, by their actions, a disdain for the laws governing a civil society and must be dealt with in a manner which insures they understand that often personal desires must be put aside in order to live in a society which can effectively function. Some of these offenders only respond to long term incarceration, some may be helped through drug courts or other type programs, and some may need short incarceration followed by intensive supervision while on probation. As with all of the five categories each case must be looked at individually and in as much detail as is allowed.

b. Juveniles (waived to circuit court): This is one of the most problematic of all groups to handle. Many times the juvenile has gotten themselves into a situation far beyond their understanding. I would consider the background and issues which they face daily and try to fashion an appropriate sentence. Although rarely done, in the most difficult cases I would take the plea defer sentencing and order a pre-sentencing report. This would allow me to determine the best possible sentence. The process cannot end with the sentencing but must make sure that there are opportunities for education, mentoring, and positive activities.

c. White collar criminals: Often these defendant's cases are taken lightly primarily because the victims only want restitution. However, I think these defendants should be treated as any other defendant. I would weigh the impact on the victim and community, and fashion a sentence which compensates the victim as fully as possible and hopefully has some reforming effect on the defendant.

d. Defendants with a socially and/or economically disadvantaged background: I would attempt to structure a sentence which would allow the victim to be compensated as much as possible, reform the defendant, and provide a mechanism by which the defendant could better himself in an attempt to help them socially and economically. Programs which might be helpful in this situation are requiring G.E.D., job training, job counseling, and possibly budget counseling.

e. Elderly defendants or those with some infirmity: I believe intensive probation is probably the most effective way to deal with these type of defendants. If, however, the crime were serious enough there would be no alternative to incarceration.

19. Are you involved in any active investments from which you derive additional income that might impair your appearance of impartiality? No
20. Would you hear a case where you or a member of your family held a *de minimis* financial interest in a party involved? No
21. Do you belong to any organizations that discriminate based on race, religion, or gender? No
22. Have you met the mandatory minimum hours requirement for continuing legal

- education courses? Yes
23. What do you feel is the appropriate demeanor for a judge? A judge should be even tempered, consistent, fair, understanding, compassionate, yet firm.
  24. Would the rules that you expressed in your previous answer apply only while you are on the bench or in chambers, or would these rules apply seven days a week, twenty-four hours a day? I certainly hope these rules would apply all day, every day. There are times however when we all fail to live up to the high standards we set for ourselves. I hope that anytime I failed to live up to those standards I would remember to apologize to those affected by my actions.
  25. Do you feel that it is ever appropriate to be angry with a member of the public, especially with a criminal defendant? Is anger ever appropriate in dealing with attorneys or pro se litigants? I think a distinction needs to be made between anger and a visible display of anger. I have been in the courtroom on several occasions when I felt it was understandable that the judge was angry with a defendant or attorney. I do not believe I have ever witnessed a judge become so angry he lost his proper demeanor. I do not believe it is appropriate to have a visible display of anger. A judge needs to remain in control of his emotions at all times and in the event he believes he is about to lose control he needs to take a brief recess until such time as he regains his composure.
  26. How much money have you spent on your campaign? If it is over \$100, has that amount been reported to the House and Senate Ethics Committees? None
  27. If you are a sitting judge, have you used judicial letterhead or the services of your staff while campaigning for this office? N/A
  28. Have you sought or received the pledge of any legislator prior to this date? No
  29. Have you sought or been offered a conditional pledge of support by any legislator pending the outcome of your screening? No
  30. Have you asked any third parties to contact members of the General Assembly on your behalf before the final and formal screening report has been released? Are you aware of any friends or colleagues contacting members of the General Assembly on your behalf? No
  31. Have you contacted any members of the Judicial Merit Selection Commission? No
  32. Are you familiar with the 48-hour rule, which prohibits a candidate from seeking pledges for 48 hours after the draft report has been submitted?

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

s/Benjamin Lester Shealy

Sworn to before me this 13<sup>th</sup> day of March, 2009.

Notary Public for S.C.

My Commission Expires: 2/4/2013 \_\_\_\_\_