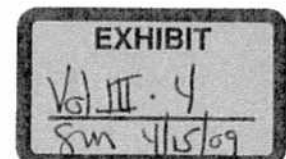


**JUDICIAL MERIT SELECTION COMMISSION  
PERSONAL DATA QUESTIONNAIRE**

Court, Position, and Seat # for which you are applying: Administrative Law Court,  
Seat 5

1. NAME: Ms. Carol I. McMahan  
BUSINESS ADDRESS: PO Box 12265, Columbia, S.C. 29211  
TELEPHONE NUMBER: (office) (864) 556-5950
  
2. Date of Birth: 1953  
Place of Birth: Walter Reed Army Hospital, Washington, D.C.
3. Are you a citizen of South Carolina? Yes, I am a citizen and resident of South Carolina.  
Have you been a resident of this state for at least the immediate past five years? Yes, I have been a citizen and resident of South Carolina since my honorable discharge from the United States Army in 1977.
5. Family Status: Married January 5, 1980, to George Carroll McMahan. Never divorced. Three children.
6. Have you served in the military? From 1974 to 1977 I served in the United States Army Security Agency (now a part of the U.S. Army). I achieved the rank of E-4 and in 1977 I was honorably discharged.
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 School of Law, 12/31/85, Juris Doctor;  
(b) University of South Carolina Spartanburg, 8/1981, B.S. Interdisciplinary  
(c) Studies w/a Concentration in Accounting;  
(a) College of Charleston, 1979, No degree obtained;  
(b) Winthrop College, Fall/1971, No degree obtained.
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.  
I was admitted to practice law in South Carolina in 1986. I sat for the bar exam one time.
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) USC Spartanburg: Work/Study participant with the Internal Revenue Service;  
(b) USC School of Law: Prentice Hall Income Tax Award, Phi Alpha Delta Law Fraternity; Employee of the Internal Revenue Service.



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 Name</u>	<u>Date(s) Attended</u>
(a) SCARLA Seminars	9/19/2008;9/21/2007; 9/22/2006,9/23/2005; 10/1/2004, 9/20/2002; (2003 not in my records); 7/13/2007;
(b) Dramatic Changes in Criminal Law	7/13/2007;
(c) ALI-ABA Confidentiality and Attorney Client Communications	12/30/2008;
(d) Ethics Roadshow	12/10/2007;
(e) Multistate Tax Commission – Tax Nexus Training (no CLE requested)	10/2007;
(f) Top Trial Lawyers Tackle Evidence	2/8/2008;
(g) Domestic Violence	5/31/2006;
(h) The Truth About Opinions	11/21/2006;
(i) Secrecy and the Courts	4/19/2005;
(j) Managing Litigation w/Technology	12/19/2005;
(k) S.C. Association of Counties	12/9/2005;
(l) Advocacy	12/10/2004;
(m) Beyond the Bar II	11/05/2004;
(n) Circuit Court Arbitration	02/15/2002.

11. Have you taught law-related courses or lectured at bar association conferences, educational institutions, or continuing legal or judicial education programs?

As a part of the South Carolina Bar's program: "Law School for Non-Lawyers" I taught "An Overview of South Carolina Courts" on September 11, 2007 in Anderson, South Carolina. I am scheduled to teach this same course in October, 2009. I have also taught a tax course at Tri-County Technical College in Pendleton, South Carolina.

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

Authored:

- (a) "Client Alert: Effects of the 2% Withholding Tax" – South Carolina Lawyer, July/Aug. 1990;
- (b) "Withholding Whammies in South Carolina" – 1991 Tax Commentaries, S.C. Assoc. of CPAs;
- (c) "Are Settlement Procedures the Way to Resolve Tax Nexus Issues" - Journal of Multistate Taxation, Nov/Dec. 1992; also reprinted in South Carolina Lawyer, May/June, 1993;
- (d) "One-Stop Business Shopping": - Business & Economics, Jan/Feb/Mar, 2003.

Co-Authored:

- (a) "What's the Use Tax" – South Carolina Lawyer, July/Aug. 1991;
  - (b) "The Taxation of Multistate Corporations in South Carolina: - 1991 Tax Commentaries, S.C. Association of CPAs;
  - (c) "What's in a Use Tax" – 1991 Tax Commentaries, S.C. Assoc. of CPAs;
  - (d) "Manufacturing and Business Personal property Tax Returns, Did You Know?" – 1992 Tax Commentaries, S.C. Assoc. of CPAs;
  - (d) "Katie Bar the Door the Tax Person Is Here" – 1992 Tax Commentaries, S.C. Assoc. of CPAs.
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 Bar: September, 1896;
  - (b) South Carolina Federal Courts: Admitted
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.
- Upon graduation from USC Law School I was employed by Price Waterhouse in Columbia, South Carolina as a Tax Consultant. This involved research and application of various federal and state tax laws.
- In December/1988 I was employed by the South Carolina Department of Revenue as a Tax Analyst. At that time I conducted legal research and represented the Field Services Division of the Department (at that time "Tax Commission) before the Tax Commissioners. In the Fall of 1995 I began preparing Department Determinations regarding regulatory violation and licensing issues and eventually tried such matters as contested cases before the Administrative Law Court (ALC) in 1996. Since 1996 I have served as sole counsel on a variety of contested cases to include regulatory, tax and disciplinary matters.
- In July of 2006 I was also assigned as counsel to various tax matters. I have also served as an Assistant Attorney General in tax matters in the absence of Thomas McDermott (deployed to Iraq). To date I continue to handle criminal tax cases as assigned.
- I currently represent the Department in a variety of contested cases before the ALC. Additionally I have had the unique opportunity to work as a mentor with the attorneys in the Honors Program at the Department. This is a fairly new program developed by the Department's Director, to hire and mentor new members of the S.C. Bar.
- (d) If you are a candidate for **Administrative Law Judge**, please provide a brief written description of your experience before an Administrative Law Judge, including any issues discussed and the frequency of your appearances before the Administrative Law Judge Division.

On a monthly, at times weekly basis I represent the Department of Revenue in a variety of matters before the ALC. For the most part I serve as sole counsel for the Department. I also serve as counsel on the appeal of such matters to the Court of Appeals and Supreme Court. At times I appear in Circuit Court on foreclosure, surplus fund matters and other cases as assigned.

For a list of many of the ALC cases that I have handled to date see:

<http://scalculator.net/search.aspx?q=mcmahan>

15. What is your rating in Martindale-Hubbell? I do not advertise in Martindale-Hubbell.
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: 98%;
  - (b) criminal: 2%;
  - (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: 0%;
  - (b) non-jury: 100%.

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

As a litigation attorney for the Department of Revenue the vast majority of my case load concern administrative, regulatory and civil tax matters. In the last year and a half I have also appeared in General Sessions for criminal tax cases. With the exception of two cases, Lexington Medical vs. S.C. Department of Revenue and Anonymous Taxpayers. S.C. Department of Revenue I served as sole counsel.

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) McNickels Inc. v. S.C. Dept. of Revenue, 351 S.C. 629, 503 S.E. 2d 723 (1998). This case is of note as the issue involved the validity of a Department regulation. The Supreme Court sustained the Department's position.
  - (b) Sonoco Products Company v. S.C. Dept. of Revenue, 2008 WL 2329754 (2008). (I handled the oral argument only). This case involved a real property tax matter regarding the meaning of the word "contiguous" for determining the applicable tax base of an office building. This case was significant in that it involved the application of a property tax statute with implications as to other taxpayers similarly situated.
  - (c) Video Gaming Consultants v. S.C. Dept. of Revenue 358 S.C. 647, 595 S.E. 2d 890 (CA, 2004). (Oral argument only). The Court of Appeals ruled

that the Department was not required to pay attorneys fees for "pressing its claim" in this case because the underlying issue was the constitutionality of a statute.

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.
  - (a) McNickels Inc. v. S.C. Dept. of Revenue, 351 S.C. 629, 503 S.E. 2d 723 (1998).
  - (b) Sonoco Products Company v. S.C. Dept. of Revenue, 2008 WL 2329754 (2008). (I handled the oral argument only with implications as to other taxpayers similarly situated.
  - (c) Video Gaming Consultants v. S.C. Dept. of Revenue 358 S.C. 647, 595 S.E. 2d 890 (CA, 2004). (Oral argument only).
  - (d) Evans v. S.C. Dept. of Revenue, (Unpublished); (Court of Appeals);
  - (e) S.C. Dept. of Revenue v. Stardust Amusement Co., 534 S.E.2d 698 (2000).
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. I have not handled any criminal appeals.
22. Have you ever held judicial office? I have never held 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. N/A
24. Have you ever held public office other than judicial office? I have never held 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. N/A
26. Have you ever been an unsuccessful candidate for elective, judicial, or other public office?

On December 4, 2008 the Judicial Merit Selection Commission found me qualified and nominated me as a candidate for ALC Seat No. 4. I was not successful in that endeavor.
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) 1980-1985: Internal Revenue Service, Spartanburg and Columbia, South Carolina; Revenue Agent
  - (b) 1986-1988- Price Waterhouse, Tax Consultant; Dec. 1988-1995: Tax Analyst, S.C. Dept. of Revenue;
  - (c) 1995-Present: Attorney, S.C. Department of Revenue.
28. Are you now an officer or director or involved in the management of any business enterprise? Explain the nature of the business, your duties, and the term of your service. N/A

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 do not believe that I have had in the past nor do I currently participate in any business relationships that might potentially present a 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  
I have not 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, etc. other than a traffic violation for exceeding the speed limit in 1984 or 1985. I disclose this because I do not recall the fine imposed.
32. Have you, to your knowledge, ever been under federal, state, or local investigation for possible violation of a criminal statute?  
No, I am not aware of ever having been investigated by federal, state, or local authorities for a violation of a criminal statute.
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?  
I do not recall tax lien or other collection procedures ever having been instituted against me.
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?  
Yes, my husband and I contracted to build our current home. We terminated the services of the contractor. He filed a mechanics lien against our home. He then filed for bankruptcy. We counterclaimed. The entire lawsuit was dismissed.
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, I have never been employed as a lobbyist.
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?  
Since filing my letter of intent to run for judicial office I have not received anything of value as defined by S.C. Code Ann. Section 2-17-10(1) from a lobbyist or lobbyist's principal.
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

To date I have not participated in any conduct of the type set forth in No. 38.

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.

To date I have no knowledge of any conduct of the type set forth in No. 39.

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.

<b>Response:</b> Paper	\$ 26.99
Name Tag:	6.99
Envelopes	26.99
Business Cards	19.99
Total:	\$ 80.96

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 not made any contributions as envisioned by Question No. 41.

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?

I have not requested directly or indirectly the pledge of any member of the General Assembly as to my election to the ALC, Seat No. 5.

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?

I have asked friends and relatives not to contact members of the General Assembly regarding my election to ALC, Seat No. 5, unless and until forty-eight hours after the Judicial Merit Selection Commission publishes its findings that I am qualified for such position and nominates me as one of the three eligible candidates for such Seat.

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 or collected funds to aid in the promotion of my candidacy. To my knowledge, no one acting on my behalf has solicited or collected funds to aid in the promotion of my candidacy.

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?

I have not contacted any member of the Judicial Merit Selection Commission regarding my application for the position of ALC, Seat No. 5. I am not aware of any third party contacting the Commission on my behalf.

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) S.C. Bar Association 1986 to Present;

(b) S.C. Bar Delegate: 2006/2007.

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) School Improvement Council, Riverside Middle School (Current) School Improvement Council, Pendleton High School 2003-2006;

(b) St. Joseph's Catholic Church, Catechist (Sunday School Teacher) 2001-2006;

(c) St. Andrews Catholic Church, 2006-Present;

(d) Teakwood Plantation Homeowners' Association: (Bd Member 2003-2007, President-2003);

(e) Special Olympics Volunteer- 2008 to present.

(f) Law School Award: The Prentice Hall Income Tax Award.

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.

I submit to the Commission that I am uniquely qualified to serve as an Administratively Law Judge in the State of South Carolina. The previous pages of this report truthfully portray a brief schematic of my life experiences as the basis for such qualifications. First, I have diligently served the State as an advocate for the Department of Revenue for many years now. Second, I continue to serve my community through my church and other activities. Third, I have the energy and focus necessary to efficiently and effectively maintain and adjudicate the docket of cases assigned to me.

49. References:

(a) Henry and Mary Jane Campbell

1326 Clarendon Ave

Florence, S.C.

(843) 665-5554;



- (b) Elizabeth Harrison  
200 Fants Grove Rd.  
Anderson, S.C.  
(864) 6460016;
- (c) Pam and Warren Wheeler  
102 Moorehead Pl.  
Pendleton, S.C.  
(864) 261-9405;
- (d) Stephen D. Kirkland, CPA, CMC, CFC  
220 Stoneridge Dr., Suite 402  
Columbia, S.C.  
(803) 477-5973;
- (e) Tara E. Brock  
Asst. Vice Pres BB&T Bank  
4007 Clemson Blvd.  
Anderson, S.C.  
(864) 261-4014.

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/ Carol I. McMahan  
Date: 03/13/09

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

Administrative Law Court  
(New Candidate)

Full Name: Carol I McMahan  
Business Address: PO Box 12265  
Columbia, S.C. 29211  
Business Telephone: (803) 898-5576

1. Do you plan to serve your full term if elected?  
Response: If elected, I plan to serve my full term.
2. Do you have any plans to return to private practice one day?  
.Response: I have no plans to go into private practice.
3. Have you met the Constitutional requirements for this position regarding age, residence, and years of practice?  
Response: I have met the Constitutional requirements for this position regarding age, residence and years of practice.
4. What is your philosophy regarding *ex parte* communications? Are there circumstances under which you could envision *ex parte* communications being tolerated?  
Response: My philosophy regarding *ex parte* communications is based on Canon 3 (B)(7), South Carolina Code of Judicial Conduct. This Canon requires in pertinent part: "[a] judge shall not initiate, permit, or consider *ex parte* communications, or consider other communications made to the judge outside the presence of the parties concerning a ending or impending proceeding." (Emphasis added). Although I would endeavor to avoid all *ex parte* communications, under limited circumstances such communications may be necessary. These exceptional circumstances are as provided by Canon 3 Section (B)(7), SCJC, for communications regarding matters other than substantive issues or matters involving the merits of the case to include an emergency, calendar issues or administrative mattes. I would make these exceptions only where I "reasonably believed no party would gain an advantage due to such *ex part* communication and I timely and promptly make arrangements to notify all other parties regarding such *ex parte* communication."
5. What is your philosophy on recusal, especially in situations in which lawyer-legislators, former associates, or law partners are to appear before you?  
Response: As a judge, I "shall" disqualify myself in any proceeding where my impartiality might reasonably be called into questions." Canon 3(E), SCJC. Any information relevant to the consideration of



disqualification must be disclosed on the record. However appearances by lawyer legislators, former associates or law partners in my court, without more, would not disqualify me from hearing the case. Instances that would require such disqualification would include but not be limited to a situation where my former law partner is appearing before me on a case that I previously served as the lawyer, or based on my former association, I have knowledge of certain evidentiary matters. Additionally, where I am disqualified under the provisions of 3 (E), I would disclose such disqualification "on the record" and may well ask the parties/lawyers to waive this disqualification and proceed with the case in a timely matter. See Canon 3(F), "Remittal."

6. 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?

Response: Under the situation presented I would disclose on the record information that I believe the parties/lawyers may consider relevant to the question of disqualification. At that time, also on the record, I would request the parties/lawyers consider waiving the disqualification by considering such out of my presence. If the parties/lawyers waived such disqualification I would timely proceed with the case. Absent such remittal, I would grant counsel's motion. See Canon 3(E) and (F), SCJC.

7. If elected, what standards would you set for yourself regarding the acceptance of gifts or social hospitality?

Response: If elected to the ALC, Seat No. 5, I would follow the mandatory language at Canon 4 (D)(5), SCJC. That is, I would not accept gifts and I would encourage family members residing in my home not to accept gifts except as specifically provided in Sections 4(D)(5)(a) through (i).

8. How would you handle a situation in which you became aware of misconduct of a lawyer or of a fellow judge?

Response: In a situation where I received information of the substantial likelihood of the misconduct of an attorney or judge I would take "appropriate action." This action may be discussing the conduct with the attorney/judge and/or reporting such misconduct to the appropriate authority. On the other hand, where I have knowledge that a violation has been committed and that such misconduct raises a substantial question as to the attorney/judge's fitness, I am required to report the misconduct to the appropriate authority, Canon 3 (D)(1) and (2), SCJC.

9. Are you affiliated with any political parties, boards or commissions that, if you are elected, would need to be re-evaluated?

Response: No, I am not.

10. Have you engaged in any fund-raising activities with any political, social, community, or religious organizations?

Response: Yes I have assisted my daughter in raising funds for various activities at Riverside Middle School and the March of Dimes. On an annual basis I send out pre-prepared letters to the other residents on Compass Pointe for donations to the March of Dimes. I also assisted my daughter in fundraising for the cheer and girl's soccer team this past year.

11. How would you handle the drafting of orders?

Response: As an Administrative Law Judge I would be required to issue orders setting forth specific findings of fact and conclusions of law. S.C. Code Ann. Section 1-23-350, 1-23-600. At times I may request that the parties draft such orders and submit them to me for consideration with copies to opposing counsel. I would also request each party submit their exceptions to such proposed orders with copies to opposing counsel within a specified time frame. See Canon 3 (B) (7), SCJC ("A judge may request a party to submit proposed findings of fact and conclusions of law, so long as the other parties are apprised of the request and are given an opportunity to respond to such proposals.")

12. What method would you use to ensure that you and your staff meet deadlines?

Response: To ensure that all deadlines were met I would set up a computer calendar, perhaps in "Outlook" tracking the pretrial, trial, and post trial motions and pleadings in a particular case. A hard copy of this tracking system would also be kept in the respective case file. Also on a weekly basis I would seek to review the status of each matter pending before me.

13. What is your philosophy on "judicial activism," and what effect should judges have in setting or promoting public policy?

Response: Black's Law Dictionary Fifth Edition, at p. 760 defines the phrase "judicial activism" as:

Judicial philosophy which motivates judges to depart from strict adherence to judicial precedent in favor of progressive and new social policies which are not always consistent with the restraint expected of appellate judges. It is commonly marked by decisions calling for social engineering and occasionally these decisions represent intrusions into legislative and executive matters.

As an administrative law judge I will not engage in, promote or seek to foster judicial activism. Such a philosophy flies in the face of an administrative law judge's role as specifically enunciated by the General Assembly in Title 1, Chapter 23. As recently noted by the South Carolina Court of Appeals in SGM-Moonglo v. S.C. Dept. of Revenue, 378 S.C. 293, 662 S.E.2d 487(Ct. App. 2008): "[a]n administrative agency has only

the powers conferred on it by law and must act within the authority for that purpose.(citing Bazzle v. Huff, 319 S.C. 443, 445, 462 S.E.2d273, 274 (1995)).

14. Canon 4 allows a judge to engage in activities to improve the law, legal system, and administration of justice. What activities would you plan to undertake to further this improvement of the legal system?

Response: In order to further the improvement of the law, legal system and administration of justice I would endeavor to speak and teach at both lawyer and law related seminars for nonlawyers, to include elementary and high schools.

15. Do you feel that the pressure of serving as a judge will strain personal relationships (i.e. spouse, children, friends, or relatives)? How would you plan to address this?

Response: I do not believe that my election to the ALC will provide additional pressure. My family and friends fully support me in this endeavor.

16. Are you involved in any active investments from which you derive additional income that might impair your appearance of impartiality?

Response: No, I am not involved in any active investments from which I derive additional income that would impair my appearance of impartiality.

17. Would you hear a case where you or a member of your family held a de minimis financial interest in a party involved?

Response: Although Canon 3(E)(1)<sup>®</sup> and (d)(iii), SCJC provide that a "de minimis" interest would not require recusal, depending on the particular case before me and the issues presented, I may recuse myself as "appearing to lack impartiality" despite the fact that the rules do not specifically require such recusal.

18. Do you belong to any organizations that discriminate based on race, religion, or gender?

Response: No, I am not aware that I belong to any organization that discriminates based on race, religion, or gender. However, should I determine that any organization that I belong to does so discriminate I would follow Canon 2( C), SCJC and use my best efforts to encourage the organization to cease such discriminatory practices. If the organization failed to take such action I would, as required, resign from the organization.

19. Have you met the mandatory minimum hour requirement for continuing legal education courses?

Response: Yes I have met the minimum hours for continuing legal education and continue to take courses to meet the 2009-2010 requirements.

20. What percentage of your legal experience has dealt with cases that appear before the Administrative Law Court? Please describe to the Commission your experience in these areas.  
Response: The vast majority of my courtroom experience has been appearing before the ALC on behalf of the South Carolina Department of Revenue. I began trying cases before the ALC for the Department in 1996. Such cases included tax, alcohol, bingo and video poker regulatory matters. Other matters handled since that time include disciplinary actions and all tax matters administered by the Department. I also handle criminal tax matters as assigned.
21. What do you feel is the appropriate demeanor for a judge?  
Response: A judge shall conduct all business, whether judicial or extra-judicial in a manner respecting the parties with whom the judge is dealing. This is readily apparent in the language of Canon 4(B)(4) which provides that a judge "shall be patient, dignified, and courteous." Further, Canon 4(A)(2) provides a judge shall conduct the judge's extra-judicial activities so as not to demean the judicial office. Historically judges are the individuals the public looks up to. Certainly courtesy and patience to everyone is the judge's rule of demeanor.
22. 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?  
Response: The rules regarding a lawyers and a judge's behavior apply across the board, twenty-four hours a day. See Canon 4(A)(2), SCJC, "a judge shall conduct all of the judge's extra-judicial activities so that they do not . . . (2) demean the judicial office."
23. Do you feel that it is ever appropriate to be angry with a member of the public who would appear before you? Is anger ever appropriate in dealing with attorneys or a pro se litigant?  
Response: First, whether judge, public official or state employee, we serve the public, the taxpayer. Anger breeds anger. It is never appropriate and a judge shall not by word, deed or mannerism express anger towards a member of the public. See Canon 3(B)(4), SCJC. A judge must be firm but courteous.
24. 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?  
Response: To date I have spent \$80.96 for paper, envelopes, a name tag and business cards in my pursuit of ALC, Seat No. 5.
25. If you are a sitting judge, have you used judicial letterhead or the services of your staff while campaigning for this office? N/A.
26. Have you sought or received the pledge of any legislator prior to this date?

Response; I have not sought and I have not received the pledge of any legislator regarding my election to ALC, Seat No.5.

27. Have you sought or been offered a conditional pledge of support by any legislator pending the outcome of your screening?

Response: I have not sought or been offered a conditional pledge of support by any legislator pending the outcome of my screening. I do not plan to seek such support prior to 48 hours after qualification and publication by the Judicial Selection Commission as required by S.C. Coe Ann. Section 2-19-70 ( C).

28. 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?

Response: No, I have not requested third parties to contact members of the General Assembly on my behalf before the final and formal screening report has been released. Furthermore, I am not aware of any friends or colleagues contacting members of the General Assembly on my behalf. I am aware that these acts violate the language and spirit of S.C. Code Ann. Section 2-19-70 (C).

29. Have you contacted any members of the Judicial Merit Selection Commission?

Response: I have not contacted any member of the Judicial Merit Selection Commission regarding my application for ALC, Seat No. 5.

30. 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?

Response: I am familiar with the 48 Hour Rule as provided by S.C. Code Ann. Section 2-19-70(C) and Rule 24, JMISC.

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

s/Carol I. McMahan

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

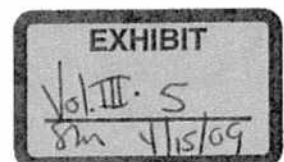
Notary Public for S.C.

My Commission Expires: 10/18/2016

**JUDICIAL MERIT SELECTION COMMISSION  
PERSONAL DATA QUESTIONNAIRE**

Court, Position, and Seat # for which you are applying: Administrative Law Court,  
Seat 5

1. NAME: Ms. Shirley Canty Robinson
- BUSINESS ADDRESS: 110 Centerview Drive/Post Office Box 11329  
Columbia, South Carolina 29211-1329
- TELEPHONE NUMBER: (office): (803) 896-4311
2. Date of Birth: 1951  
Place of Birth: Greeleyville, South Carolina
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: Divorced. One child.  
Divorced on February 20, 1976, Richland County Family Court, State of South Carolina, One year's separation. Manson Robinson Jr. was the moving party.
6. Have you served in the military? No.
7. List each college and law school you attended, including the dates of your attendance, the degrees you received, and if you left an institution without receiving a degree, the reason for your departure.
- (a) Friendship Junior College  
January 1970 thru August 1971
  - (b) Benedict College  
1972 and 1973 summer sessions
  - (c) University of South Carolina  
August 1978 thru August 1984  
Bachelor of Science in Business Administration (Accounting)
  - (d) University of South Carolina School of Law  
August 1988 thru December 1990  
Juris Doctorate
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.
- I was admitted to the South Carolina Bar in May 1991 after taking the Bar's entrance examination in February of the same year.
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.





I participated in the Black Law Students Association (BLSA) from August 1988 thru December 1990, and served as coordinator of the Law School's tutorial program from 1989 thru 1990.

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)	SC Association of Counties Local Government Attorney's Workshop	12/12/08;
(b)	2008 SCAARLA Conference	09/19/08;
(c)	SCWLA/Judicial Selection in SC	09/17/08;
(d)	National Association of Hearing Officers	11/5-6/07;
(e)	SCAARLA Ethics	10/31/07;
(f)	Federation of Administrative And Regulatory Boards	10/05/07;
(g)	2007 SCAARLA Conference	09/21/07;
(h)	SC Association of Counties Local Government Attorneys' Workshop	12/08/06;
(i)	SC Atty. Gen'l Ethics Workshop	11/03/06;
(j)	2006 SCAARLA Conference	09/22/06;
(k)	2005 SCAARLA Conference	09/23/05;
(l)	DHEC Seminar	03/18/05;
(m)	SC Association of Counties Local Government Attorneys' Workshop	12/10/04;
(n)	SC Black Lawyers 2 <sup>nd</sup> Annual Retreat	10/22/04;
(o)	2004 SCAARLA Conference	10/01/04;
(p)	SC Association of Counties Local Government Attorney's Workshop	12/12/03;
(q)	2003 SCAARLA Conference	09/26/03

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. No.

12. List all published books and articles you have written and give citations and the dates of publication for each. None.

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.  
Admitted to practice in South Carolina State courts since May 1991, and the United States District Court (including Bankruptcy Court) since August 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) 1991 (6 months) Law Firm of Edwards and Associates  
Columbia, South Carolina  
Was a first year associate working primarily as co-counsel with seasoned attorneys on cases in the areas of personal injury, family law and workers' compensation.
- (b) 1991 thru mid-1992, 8<sup>th</sup> Circuit Solicitor's Office  
Greenwood, South Carolina  
Served as Assistant Solicitor prosecuting juveniles, and abuse and neglect cases.
- (c) 1992 thru 1994 South Carolina Legislative Black Caucus  
Columbia, South Carolina  
Served as Executive Director performing duties that included research, speech writing, management of the office and staff, fundraising, and coordinator of intern program.
- (d) 1995 thru 2000 Law Offices of Newman & Sabb, PA  
Columbia, South Carolina  
(Firm name changed to Law Offices of Ronnie A. Sabb, LLC in June 2000)  
Was senior associate in offices in Columbia and Lake City, South Carolina. Seventy-five percent of my practice was in the areas of consumer bankruptcy and family law, and the remaining twenty-five percent was in the areas of probate law, workers' compensation and personal injury.
- (e) 2000 thru present, SC Department of Labor, Licensing and Regulation  
Columbia, South Carolina  
I am the senior hearing advisor to the 36 professional licensing boards that comprise LLR's Division of Professional and Occupational Licensing (POL). POL boards have statutory responsibility for sanctioning licensees who are found to have committed misconduct or are found to be incompetent after the board conducts a full evidentiary hearing. The evidentiary hearings are conducted in accordance with the notice and procedural requirements of the SC Administrative Procedures Act (the APA), and the boards' final orders must include findings and conclusions that are supported by a preponderance of the evidence produced at the hearings. The majority of board members are individuals who practice the profession being regulated and have little knowledge of the procedural aspects of conducting

contested hearings or evaluating evidence. As the advisor, it is my responsibility to advise the boards on jurisdictional boundaries, rules of evidence, proper disposal of prehearing motions and objections raised during hearings, and all other matters involved in ensuring that the hearings are fair and that individuals' due process rights are protected. I also have responsibility for assisting boards in maintaining proper order and decorum during the hearings, and I prepare the final orders for the board chairman/president signature.

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

(d) If you are a candidate for **Administrative Law Judge**, please provide a brief written description of your experience before an Administrative Law Judge, including any issues discussed and the frequency of your appearances before the Administrative Law Judge Division.

It has been several years since I appeared before former Administrative Law Judge Ray Stevens in a contested hearing in protest of DHEC's approval of a permit for a chicken farm. Although I don't make frequent personal appearances before the Administrative Law Court, in my capacity as advisor to LLR's POL boards, I provide guidance on applying the appropriate standard of proof (preponderance of the evidence), how to properly rule on motions and objections, and assist with maintaining order and a judicial atmosphere during the hearings. I also write the final orders. It should be noted that LLR's contested hearings mirror contested hearings held by Administrative Law Judges in terms of procedures, evidentiary rules and general protocol.

15. What is your rating in Martindale-Hubbell?

I am not rated in Martindale-Hubbell, and have never inquired about the requirements for listing.

**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: None. Prior to leaving private practice, I appeared weekly in Federal Bankruptcy Court.

(b) state: None. Prior to leaving private practice, I appeared in family court weekly.

17. What percentage of your practice involved civil, criminal, and domestic matters during the last five years?

(a) civil: Currently, 0 percent, however, while in private practice it was 60%.

(b) criminal: 0 percent.

(c) domestic: Currently, 0 percent, however, while in private practice it was 40%.

18. What percentage of your practice in trial court during the last five years involved matters that went to a jury, including those that settled prior to trial?
- (a) jury: 0 percent.
  - (b) non-jury: Currently 0 percent, however while in private practice it was 100%.

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

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

(a) Mollie A. Brooks, et al. vs. SC Department of Health and Environmental Control, et al. My clients were contesting DHEC's granting of a permit for a chicken farm in their rural community. A contested hearing was held before Administrative Law Court Judge Ray Stevens, and was significant because it represented my first appearance before the ALC.

(b) In Re: The Estate of Herbert O. Pointer vs. Phyllis Pointer. The case was tried before the Richland County Probate Court, and was significant because of the novel issue addressed. The personal representative sought to exclude my client as an heir because she was not the decedent's natural child and was never legally adopted, although the decedent, after marrying my client's mother, caused his name to be added to her birth certificate and raised her as if she was his child. The court ruled in my client's favor.

(c) Manson Robinson, Jr., et al. vs. John Q. Hammond Corporation, et al. The case was my first and only significant federal civil case, and involved complex issues that required extensive pre-trial preparation. Numerous witnesses were deposed and prepped for trial testimony. A settlement was reached just prior to the trial.

(d) Page vs. Page. The case was significant because it involved a hotly contested child custody dispute. My client ultimately prevailed.

(e) McFadden vs. McFadden. This case also involved a heavily contested child custody and property dispute in which both parties raised issues of alleged marital misconduct. Because of the bitterness and hostility between the husband and wife, I am of the opinion that neither party prevailed.

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) Brantley v. Brantley, SC Court of Appeals, decision issued on March 13, 2000.

(b) Jones vs. Jones, SC Court of Appeals, decision issued on October 1, 1998.

(c) Schumpert v. Estate of Pearl Schumpert Jenkins, SC Court of Appeals, decision issued on May 19, 1997.

21. List up to five criminal appeals that you have personally handled. Give the case name, the court, the date of decision and the citation if the case was

- reported. **If you are a candidate for an appellate court judgeship (please attach one copy of briefs filed by you in each matter.** None.
22. Have you ever held judicial office? 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. No.
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. Not applicable.
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, I have never held 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?  
Yes, I ran unsuccessfully for the SC Administrative Law Court in 2005 and 2006. I was a candidate for the SCLC Seat filled on February 11, 2009, however I withdrew prior to the election.
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) From 1971 thru 1973, I was employed as a Program Tester with the Williamsburg County School System. In this position, I was required to periodically test 1<sup>st</sup>, 2<sup>nd</sup> and 3<sup>rd</sup> grade students to assess academic performance.  
(b) From 1973 thru 1982, I was employed with the South Carolina Department of Insurance where I worked in various clerical positions.  
(c) From 1982 thru 1988, I was employed with the South Carolina House of Representatives where I worked in various positions that included serving two years as Assistant Supervisor of the word processing center and two years as an administrative assistant with the House Operations and Management Committee.
28. Are you now an officer or director or involved in the management of any business enterprise. No.
29. A complete, current financial 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  
In December 1983, I was charged with driving under the influence and in April 1984, I was charged with driving was a suspended license, and paid a fine in each instance. I deeply regret both incidents and have since strived to conduct myself, both personally and professionally, in an ethical and positive manner, and since these incidents, I have attended law school and joined the SC Bar.
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?  
My answer is "no" to each of the above questions; however records at the Richland County Courthouse reflect a State tax lien of \$155.18 was filed on March 1, 2001 and satisfied on March 20, 2001. When I learned of the lien and satisfaction, I made inquiry to the Department of Revenue and was told the lien was filed in error. I also learned that had the lien been withdrawn, it would have been removed from the records, and have no explanation for why this was not done.
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?  
(a) Yes. I was the defendant in a foreclosure action filed by the Berkshire Place Homeowners Association in September 2007. The action involved the nonpayment of regime fees only and did not involve a failure to pay the mortgage. The property was being leased and under the terms of the lease agreement entered into in January 2000, the tenant did not pay a set amount for rent, but instead agreed to pay the monthly mortgage and regime fees and any other expenses associated with the rental unit. When the lease agreement was signed, the property had been on the market for several months and had not sold, and the tenant wanted to purchase the property but could not qualify for a mortgage because of credit issues. The foreclosure came about when the tenant stopped paying the regime fees in mid-2006. I learned about the unpaid regime fees and the foreclosure action in March 2008 and immediately contacted the Association's lawyer and started negotiations to resolve the case. The case was resolved and an Order Setting Aside Special Referee Report and Judgment of Foreclosure and Dismissal of Complaint was filed on November 18, 2008.

- (b) In March 2002, I was sued in magistrate's court by a client of the law firm where I was formerly employed. The client was displeased with my handling of a legal matter, and after consulting with two attorneys, he filed a pro se action in Richland County Magistrate's Court. After a brief hearing, the judge told the client he found no impropriety in my handling of the matter, and the case was dismissed.
- (c) I was the defendant in a foreclosure action filed by the Berkshire Place Homeowners Association in August 1994. The case came out of a dispute between me and the Association Board over the manner in which regime fees were increased. I wanted the Board to follow the by-laws when increasing fees, and the management company was advising otherwise. The foreclosure action involved the increases, and I continued to pay the portion of the fees that were not in dispute. After much discussion with the Association's attorney, the case was dismissed in July 1996.
- (d) In September 1999, the Berkshire Place Homeowners Association filed another foreclosure action that involved the same issue involved in the previous foreclosure. I disputed the Board's right to impose a special assessment and increase regime fees without first obtaining the approval of a majority of the Association members, as written in the by-laws. While the case was pending, I continued to pay the monthly fees that were not in dispute. The case was dismissed in February 2001.
- (e) In March 1989, General Motors Acceptance filed an action to recover a vehicle that I obtained financing for on my ex-husband's behalf. He was to make the payments, but failed to do so and did not respond to GMAC's attempts to recover the vehicle. GMAC ultimately recovered the vehicle and the action was dismissed on May 24, 1989.
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. None.
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. None.

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.  
\$38.00 in printing costs.
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? 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?  
Commission members who are also members of the General Assembly may have received correspondence from me announcing my withdrawal from the previous race and intent to run for the next available seat. I have not otherwise contacted members of the Commission nor am I aware of others making contact on my behalf.
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
  - (b) SC Administrative and Regulatory Law Association
  - (c) SC Women Lawyers' Association
  - (d) SC Black Lawyers' 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) James L. Belin Trust Board of Trustees -- Chairman
  - (b) Board of Directors, Columbia Bethlehem Community Center
  - (c) 1988 recipient of Am Jur Award in Contracts
  - (d) Formerly member of Babynet Interagency Coordinating Council (appointed by Governor Carroll Campbell)



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.

I have nothing further to disclose, however, I would briefly emphasize that for the past eight years, as advisor to LLR's professional licensing boards, I've strived to help board members understand the importance of their quasi-judicial role when holding contested disciplinary hearings. When functioning in their judicial role, the members have a responsibility to see that our citizens are protected from incompetent practice, but at the same time they have a responsibility to see that the individual being tried receives a full and fair hearing. During training and while advising, I tell members that they are functioning as jurists when conducting hearings and this should be reflected in their demeanor, and every individual who appears before them should be treated fairly and with respect. In essence, I instruct them to conduct themselves in the manner I believe is appropriate for all judges, and in the manner in which I will conduct myself if I am fortunate enough to be nominated by this Commission and elected to the Court.

In addition to the characteristics already identified, I also believe that the ability to write well-reasoned and well-written decisions is another essential characteristic of a good judge. I ask that the Commission take note of the fact that while serving in my current position, I have written countless final decisions that have withstood appellant scrutiny. Because our hearings are held in accordance with the APA, I have an extensive working knowledge of its application in contested hearings, and the same goes for applying the rules of evidence in contested matters. When I initially joined the staff of LLR, most cases involved individuals appearing pro se, however in recent years, more and more individuals are securing attorneys to represent them before our boards. I have also seen more pre-hearing motions being filed and more objections and evidentiary issues arising during the hearings, and when dealing with these matters, boards generally defer to the advice given by the legal advisor. Because my current role so closely corresponds to the functions performed by administrative law judges, I believe that I will bring a unique level of experience to the Court.

I am grateful to have another opportunity to run for the South Carolina Administrative Law Court, and respectfully request that the Commission give my application careful consideration.

49. References:

- (a) Ronnie A. Sabb, Esquire  
Post Office Box 88  
Kingstree, South Carolina 29556  
(843) 355-5349
- (b) Louis L. Rosen, Esquire  
71 Ridgecrest Drive  
Lexington, South Carolina 29072

- (803) 957-3165
- (c) Dr. Jimmy L. Gilbert, Jr.  
1415 Park Street  
Columbia, South Carolina 29201  
(803) 799-3077
  - (d) Linda Grice, Esquire  
3117 Quitman Street  
Columbia, South Carolina 29204  
(803) 738-8128
  - (e) Mr. Chris Williams  
SC State Credit Union  
Post Office box 726  
Columbia, South Carolina 29202  
(803) 343-0343

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/ Shirley C. Robinson  
Date: 03/11/09

**SHIRLEY C. ROBINSON**  
**29 Windsor Cove**  
**Columbia, South Carolina 29223**  
**(803) 788-5493**

April 6, 2009

Nancy Coombs, Esquire  
Senate Judiciary Committee  
Post Office Box 142  
Columbia, SC 29202

RE: Administrative Law Court, Seat #5  
Amendments to Personal Data Questionnaire

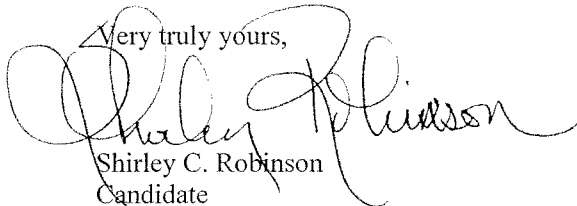
Dear Ms. Coombs:

Per our discussion on Monday, March 30, 2009, the Personal Data Questionnaire that was submitted on March 11, 2009 should be amended to include the following information that was inadvertently omitted:

1. The Court, Position and Seat # for which I am applying:  
  
South Carolina Administrative Law Court  
Judge  
Seat #5
2. Question #7 should be amended to reflect that in August 1971, I received an Associate Degree in Business Administration from Friendship Junior College.
3. In the response to Question #26, the second sentence should be amended to read as follows: I was a candidate for the SC Administrative Law Court Seat filed on February 11, 2009, however I withdrew prior to the election.

Thank you for your thoroughness in reviewing my application packet, and if additional information is needed, please don't hesitate to contact me. I will deliver the amended Statement of Economic Interests Forms to Laurie Traywick later this week.

Very truly yours,

  
Shirley C. Robinson  
Candidate

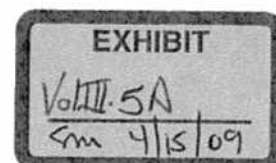
SCR/

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

Administrative Law Court  
(New Candidate)

Full Name: Shirley Canty Robinson  
Business Address: 110 Centerview Drive  
Post Office Box 11329  
Columbia, South Carolina 29211-1329  
Business Telephone: (803) 896-4311

1. Do you plan to serve your full term if elected? Yes.
2. Do you have any plans to return to private practice one day? No.
3. Have you met the Constitutional requirements for this position regarding age, residence, and years of practice? Yes.
4. What is your philosophy regarding *ex parte* communications? Are there circumstances under which you could envision *ex parte* communications being tolerated? As a general rule, I do not believe it is ever appropriate to engage in *ex parte* communications. However, there are limited circumstances where *ex parte* communications may be allowed for scheduling, administrative matters or emergencies that do not involve substantive matters or issues on the merits of the case. When allowed, the communication should not be such that one party gains an upper hand, and the party not participating in the communication should be promptly notified of the substance of the communication and given an opportunity to respond. Fortunately this topic is addressed by Cannon 3 of the Rules of Judicial Conduct in such a way as to provide judges with practical guidance for dealing with this issue.
5. What is your philosophy on recusal, especially in situations in which lawyer-legislators, former associates, or law partners are to appear before you? Recusal is appropriate in all matters or cases in which the judge has personal knowledge of the facts of the case, a close or personal relationship with one of the parties, or where circumstances exist that causes the judge or the parties to believe there may be an appearance of impropriety or lack of impartiality. With respect to situations involving lawyer-legislators, former associates, or law partners, recusal should not be based solely upon the identify of individuals appearing before the court. I am a firm believer in full disclosure and the fact that the lawyer representing a party is a former associate or partner should be disclosed, and if there is a request for recusal, the request should be considered along with other factors.



6. 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 believe the public should feel that they are treated fairly in court proceedings, and if there is an appearance of bias, the request for recusal should be given deference, and should be granted if it is a situation in which impartiality could reasonably be questioned. However, when considering the request, consideration should be given to whether the request is being made for purposes of delaying the case or to gain an unfair advantage, and if there is evidence that this is the motive for the request, denial is appropriate.
7. If elected, what standards would you set for yourself regarding the acceptance of gifts or social hospitality? I would strictly adhere to the Code of Judicial Conduct that addresses this topic, and even in situations where acceptance would not violate the Code, I believe judges should refrain from placing themselves in situations that give the appearance of impropriety.
8. How would you handle a situation in which you became aware of misconduct of a lawyer or of a fellow judge? If the lawyer or fellow judge and I shared a close or cordial relationship, I would initiate a discussion about the matter and encourage the lawyer or judge to self-report. However, if the matter was not reported within a reasonable timeframe, I would report the matter to the appropriate authorities.
9. Are you affiliated with any political parties, boards or commissions that, if you are elected, would need to be re-evaluated? I have no affiliation with any political party. For the past several years, I have served as a member of the Board of Trustees for a United Methodist affiliated trust and on the Board of a non-profit community center. If elected, I would seek an opinion addressing the appropriateness of my continuing to serve on these boards.
10. Have you engaged in any fund-raising activities with any political, social, community, or religious organizations? No.
11. How would you handle the drafting of orders? I am accustomed to drafting orders with little assistance, and I don't anticipate a drastic departure from my normal practice. As an Administrative Law Judge, I will have the option of hiring a law clerk and I anticipate utilizing the law clerk to assist with research and drafting routine orders, which will aid in getting orders prepared promptly. However, in instances where orders are drafted by the law clerk, I am ultimately responsible and plan to closely review these orders prior to signing.
12. What method would you use to ensure that you and your staff meet deadlines? I will work with staff to set up a docketing system to track outstanding matters. The tracking system I currently use to monitor outstanding orders is reviewed by me and my support staff person at

the beginning and end of each week. My current system works well in keeping me on track, and I anticipate initiating a similar tracking system if I am elected to the Court.

13. What is your philosophy on "judicial activism," and what effect should judges have in setting or promoting public policy? The role of a judge is to interpret and apply the laws enacted by the General Assembly, and if there is ambiguity in the law, deference should be given to the Legislature's intent and appellate court interpretation. It is not appropriate for judges to engage in judicial activism.
14. Canon 4 allows a judge to engage in activities to improve the law, legal system, and administration of justice. What activities would you plan to undertake to further this improvement of the legal system? I would familiarize myself with existing committees and activities within the Bar Association and in my community, and affiliate with those that benefit the community and are geared toward improving our system of justice.
15. Do you feel that the pressure of serving as a judge will strain personal relationships (i.e. spouse, children, friends, or relatives)? How would you plan to address this? No, my family has always been very supportive and I don't anticipate that this will change.
16. Are you involved in any active investments from which you derive additional income that might impair your appearance of impartiality?  
No.
17. Would you hear a case where you or a member of your family held a de minimis financial interest in a party involved? Yes. The Code of Judicial Conduct defines de minimis as denoting an insignificant interest that could not raise reasonable question as to a judge's impartiality.
18. Do you belong to any organizations that discriminate based on race, religion, or gender? No.
19. Have you met the mandatory minimum hours requirement for continuing legal education courses? Yes.
20. What percentage of your legal experience has dealt with cases that appear before the Administrative Law Court? Please describe to the Commission your experience in these areas. As a lawyer advisor with the SC Department of Labor, Licensing and Regulation for the past 8 years, 100% of the cases I've been involved with could potentially receive appellate review by the SC Administrative Law Court. In my role, I am advisor to the 36 professional licensing boards during contested hearings. Although I don't 'appear' before the Court, contested hearings before LLR's licensing boards mirror contested hearings held by Administrative Law Judges in terms of procedures, evidentiary rules and general protocol. I advise and guide the boards in applying the appropriate evidentiary standard, ruling on motions,

maintaining order and a judicial atmosphere, and I draft final orders with detailed findings of fact to support the boards' final decisions. On average, I participate in 125 contested hearings annually and draft final orders for each hearing. To competently function in my role, I must have an excellent working knowledge of the APA and the rules of evidence, and good working knowledge of how to apply both in contested hearings.

21. What do you feel is the appropriate demeanor for a judge? Canon 3 of the Code of Judicial Conduct states that judges are to "be patient, dignified and courteous to litigants, jurors, witnesses, lawyers and others with whom the judge deals in an official capacity". I quote this Canon because it reflects my personal view of the appropriate demeanor for judges, and displaying an appropriate demeanor is critical to maintaining, protecting and conveying the dignity and integrity of the judiciary.
22. 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? The rules I expressed in my previous answer will apply at all times.
23. Do you feel that it is ever appropriate to be angry with a member of the public who would appear before you? Is anger ever appropriate in dealing with attorneys or a pro se litigant? No. Displays of anger is never appropriate, however there are times when a judge must be stern in maintaining proper order and decorum in the courtroom.
24. 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? To date, I have spent \$38.00 for printing.
25. If you are a sitting judge, have you used judicial letterhead or the services of your staff while campaigning for this office?  
Not applicable.
26. Have you sought or received the pledge of any legislator prior to this date? No.
27. Have you sought or been offered a conditional pledge of support by any legislator pending the outcome of your screening? No.
28. 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, is my response to both questions.
29. Have you contacted any members of the Judicial Merit Selection Commission? Commission members who are also members of the General Assembly may have received correspondence from me announcing my withdrawal from the previous race and intent to run

for the next available seat. I have not otherwise contacted members of the Commission.

30. 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/Shirley C. Robinson

Sworn to before me this 11<sup>th</sup> day of March, 2009.

Notary Public for S.C.

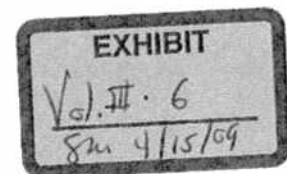
My Commission Expires: 10/17/2010



**JUDICIAL MERIT SELECTION COMMISSION  
PERSONAL DATA QUESTIONNAIRE**

Court, Position, and Seat # for which you are applying: Administrative Law Court,  
Seat 5

1. NAME: Mr. Lee W. Zimmerman  
BUSINESS ADDRESS: 1301 Gervais St., 11<sup>th</sup> Floor, Columbia, SC 29209.  
TELEPHONE NUMBER: (office): 803-743-9403
  
2. Date of Birth: 1951  
Place of Birth: Cincinnati, Ohio
  
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 10, 2009, to Nancy Picciano Zimmerman.  
Never divorced. Two children.
  
6. Have you served in the military? No  
Yes. June 1969 – July 1993, USAF, Lt. Colonel, 290-42-1438, 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) United States Air Force Academy, 1969-1973, B.S.;
  - (b) University of Pittsburgh, 1973-1974, M.A.;
  - (c) University of Colorado, 1978-1981, J.D.;
  - (d) The George Washington University, 1988-1989, LL.M.
  
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.
  - (a) Colorado, 1981;
  - (b) New York, 1993;
  - (c) South Carolina, 2000.
  
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.  
College:
  - (a) Summer Research Program, B-1 Bomber Special Program Office, Wright-Patterson AFB, Ohio (Summer 1972)
  - (b) Flight Sergeant, Basic Cadet Summer Training (Summer 1971)
  - (c) Flight Commander, Spring Semester (1973)
  - (d) Chairman, Rally Committee Dad's Day Weekend (1972)



- (e) Intramural Football (1969), Water Polo (1969-70), Swimming (1970), Lacrosse(1970-72, Coach 1972), Squash (1970-73), Rugby (1971-73, Official 1972)

Law School:

Legal Intern, Lowry AFB, Co. (Summer and Winter Breaks 1978-1981).

Air Force Institute of Technology Liaison Officer, University of Colorado (1980-1981), responsible for administrative and managerial duties related to all active duty Air Force students at the University.

Conducted administrative hearing in Air Force ROTC cadet disenrollment action and reported finding to the ROTC Commanding Officer (1980).

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)	Pros and Cons of Tort Reform	1/20/2004;
(b)	Administrative and Regulatory Law	1/23/2004;
(c)	Environmental and Natural Resources	1/23/2004;
(d)	Coming Technology	2/24/2004;
(e)	33 <sup>rd</sup> Annual ABA Env. Law Conference	3/11/2004
(f)	Revised Lawyer's Oath	9/21/2004;
(g)	Best Ethical Practices	9/24/2004;
(h)	Effective Mediation Strategies	10/26/2004;
(i)	Admin and Reg. Law Committee Seminar (Presenter)	1/21/2005;
(j)	Environmental and Natural Resources	1/22/2005;
(k)	Attorney EDF Training	1/10/2005;
(l)	Civility, Presidents and Professions	1/25/2005;
(m)	Civil Court Mediation Certification	2/10/2005;
(n)	Tort Reform or Torts Deformed	2/22/2005;
(o)	Current Issues Update	10/28/2005;
(p)	Legal Jeopardy	1/24/2006;
(q)	New Court Developments	2/21/2006;
(r)	Loss Prevention	3/25/2006;
(s)	SCARLA Seminar and Annual Mtg.	9/22/2006;
(t)	Loss Prevention Team	10/6/2006
(u)	Act 387	11/3/2006;
(v)	Loss Prevention	4/21/2007;
(w)	SCARLA Conference	9/21/2007;
(x)	US Supreme Ct. and Punitive Damages	10/16/2007;
(y)	SC Bar – Env. And Nat. Res. Section	1/24/2008;
(z)	SC Bar - Gov't and Admin. Law Section	1/25/2008;
(aa)	Attorney Disciplinary Counsel	1/22/2008;
(bb)	Trial by Jury	4/9/2008;
(cc)	Government Law Update	6/20/2008;

- (dd) Loss Prevention Presentation 10/4/2008;
  - (ee) Expert Witnesses on Parade 10/14/2008;
  - (ff) SCARLA Conference 9/19/2008;
  - (gg) Discovery Problems and Abuses 11/18/2008;
  - (hh) Municipal Attorneys Assoc. Mtg. 12/5/2008;
  - (ii) Flowing from Bates v. State Bar 1/20/2009.
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.
- (a) S.C. Bar Convention, Multi-jurisdictional Law Practice (1/2005).
  - (b) N.Y.S. Bar CLE – Practice before the Dept. of Environmental Conservation (1999)
  - (c) Toxic Tort Presentations, Regional Installation Restoration Program Workshops, Air Force Environmental Law Division (1986-1988).
  - (d) Adjunct Faculty, Air Force Judge Advocate General's School, Environmental Law and Advance Environmental Law (1989-1993).
12. List all published books and articles you have written and give citations and the dates of publication for each.
- "Federal Agency Participation as a Potentially Responsible Party in CERCLA Section 122 Settlements at Third-Party Sites," LL.M. Thesis, The National Law Center, George Washington University, 1991.
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) Colorado, October 30, 1981
  - (b) U.S. District Court, District of Colorado, January 4, 1982
  - (c) U.S. Court of Military Appeals, January 14, 1982
  - (d) U.S. Supreme Court, March 27, 1989
  - (e) New York State, May 1993
  - (f) South Carolina, November 13, 2000
  - (g) U.S. District Court, District of South Carolina, July 26, 2005
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) Assistant Staff Judge Advocate, United States Air Force Academy, 1981-1983.  
 Claims Officer and Chief, Military Justice and Labor Law. Investigated tort and medical malpractice claims and adjudicated personnel and tort claims filed at the USAFA; represented management in administrative hearings before the EEO and Merit Systems Protection Boards; Hearing Officer in cadet disenrollment cases; represented the Air Force in Special and General Courts-Martial, including a two-week premeditated murder case; Cadet Squadron Professional Ethics Advisor.

- (b) Deputy Staff Judge Advocate, Eielson AFB, Alaska, 1983-1985.  
Chief, Military Justice and Labor Law. Responsible for all military justice actions at a base with over 4,000 military and 600 civilian personnel; Article 32, UCMJ, Investigating Officer and Legal Advisor on Administrative Discharge Boards; lead prosecutor in ten courts-martial; Alaskan Air Command nominee for the Albert Kuhfield Award as the Outstanding Young Judge Advocate.
- (c) Staff Attorney and Chief, Environmental Torts, Air Force Claims and Tort Litigation Staff, Headquarters, USAF, 1985-1989.  
Analyzed major tort claims against the Air Force; represented the United States in over fifteen toxic tort cases alleging personal injury from asbestos exposure, radiation exposure, and ingestion of contaminated waste; negotiated and coordinated settlement of cases with the U.S. Department of Justice and U.S. Attorneys throughout the United States; provided inputs for responses to Presidential and Congressional inquiries; lectured on "toxic tort" liability to over 500 lawyers and engineers at seven regional workshops; appointed as a Special U.S. Attorney and a member of the Department of Justice trial team in Clark v. United States, the first toxic tort case litigated against the Department of Defense; Headquarters, Air Force nominee for the Albert Kuhfield Award as the Outstanding Young Judge Advocate.
- (d) Student, The National Law Center, The George Washington University, 1989-1990.  
Competitively selected by U.S. Air Force to obtain LL.M. in Environmental Law; one semester legal internship at Headquarters, U.S.E.P.A.
- (e) Regional Counsel, Air Force Central Region Environmental Office, Dallas, Texas, 1989-1993.  
Managed the legal office responsible for providing environmental legal services to the Air Force's Central Region Compliance Office and 40 major Air Force installations in the central United States; coordinated the resolution of potential liability with Department of Justice, EPA and private party attorneys at 45 Superfund sites; negotiated Compliance Agreements and Consent Decrees with EPA, state regulatory agencies, private potentially responsible parties, and contractors; developed a guidance manual for federal agencies named as potentially responsible parties at Superfund sites; conducted environmental compliance audits at Air Force facilities.
- (f) Attorney, East Amherst, New York, 1993-1994.  
Provided legal and environmental forensic consulting services to environmental contractors; kept clients informed of developments in environmental laws and regulations and advised clients on the marketing of environmental services to government and private entities.

- (g) Attorney, Division of Environmental Enforcement, New York State Department of Environmental Conservation, Western Field Unit, Buffalo, New York, 1994-1995.  
Provided legal support in enforcement of the state's Inactive Hazardous Waste Site Program; identified parties that were potentially responsible for site cleanup costs; negotiated consent orders for site investigation and remediation; coordinated site cleanup activities with other government agencies; ensured parties complied with consent orders.
- (h) Staff Attorney, Ecology and Environment, Inc., 1995-1996.  
Provided in-house corporate and environmental legal support; advised corporate officers on statutory and regulatory initiatives; conducted Applicable or Relevant and Appropriate Requirements (ARARs) analysis in the preparation of Remedial Investigations/Feasibility Studies at Superfund Sites; prepared protocols for environmental audits at major industrial facilities; supervised outside counsel in litigation involving remedial action contractor issues.
- (i) Hearing Officer, Office of Administrative Hearings, New York State Department of Social Services, Buffalo, New York, 1996-1998.  
Designated by the Commissioner of the Department of Social Services to conduct administrative fair hearings in nine counties in Western New York; elicited testimony from parties and directed cross-examination; identified and analyzed issues raised at the hearings; prepared complete and accurate records of the hearings; compiled and organized documentary evidence; reviewed hearing records, weighed the evidence, and drafted recommended decisions for the Commissioner's signature.
- (j) Assistant Regional Attorney, New York State Department of Environmental Conservation, Region 9, Buffalo, New York, 1998-2000.  
Provided legal advice, counsel and assistance to Department of Environmental Conservation program staff; conducted legal and factual research on specific environmental legal issues; prepared notices of violation, administrative complaints, consent orders, litigation referrals, litigation papers, memoranda of law, and briefs; represented the DEC in environmental violation settlement negotiations; administratively settled 19 cases with total penalties of \$323,000; represented the DEC and staff in hearings and served as liaison with the Office of the New York Attorney General in litigation involving the DEC.
- (k) Senior Corporate Counsel, Safety-Kleen Corp., Columbia, S.C., 2000-2002.  
Provided legal advice to hazardous waste and solvent recycling facilities throughout the United States; negotiated settlement of regulatory and enforcement actions with state environmental agencies; assisted outside bankruptcy counsel in identifying, evaluating, and resolving creditors' claims against company; established legal foundation for closure and post-closure care of the Pinewood Hazardous Waste Landfill.

(l) Special Counsel, McNair Law Firm, P.A., Columbia, S.C., 2002-Present.

Member of the Administrative/Regulatory Practice Unit. Represent industry and business in regulatory, land use, government relations, and health and safety matters; advise clients on regulatory permitting and compliance issues, including environmental due diligence in the sale/purchase of business and real property assets; represent companies named as potentially responsible parties at federal and state Superfund sites; represent clients before the South Carolina Administrative Law Court in environmental/agricultural permitting actions, Certificate of Need actions, and Alcohol Beverage Control Act matters; serve as Town Attorney for the Town of Blythewood, South Carolina.

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

(d) If you are a candidate for **Administrative Law Judge**, please provide a brief written description of your experience before an Administrative Law Judge, including any issues discussed and the frequency of your appearances before the Administrative Law Judge Division.

Since joining the McNair Law Firm in 2002 I have been lead or associate counsel on approximately nine matters before the Administrative Law Court.

Four matters were fully litigated. One involved an appeal of DHEC's denial of a construction and demolition landfill. The case involved the interpretation of the South Carolina Solid Waste Policy and Management Act and the interplay between state regulations and local ordinances. The Administrative Law Judge agreed with the legal positions taken by my client and reversed DHEC's denial of the permit. Other fully litigated matters included a health facility matter, in which the Administrative Law Judge upheld our client's challenge to DHEC's issuance of a Non-applicability Determination to a health care facility, and two matters challenging a penalty imposed by the Department of Revenue against a holder of a beer and wine permit.

Matters resolved without full litigation included a challenge to DHEC's imposition of a penalty under the Pollution Control Act. The day prior to the scheduled hearing an agreement was reached with DHEC, resulting in the Court issuing a Consent Order approving DHEC's request to withdraw the notices of violation with prejudice. In two other cases the Administrative Law Judge granted our Motions to Dismiss based on lack of subject matter jurisdiction.

Two matters are still pending before the Court.

15. What is your rating in Martindale-Hubbell. Listed, Not rated.

**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: None.
  - (b) state: ALC: nine and Circuit Court: one.
17. What percentage of your practice involved civil, criminal, and domestic matters during the last five years?
- (a) civil: 100%
  - (b) criminal: None.
  - (c) domestic: None.
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: None
  - (b) non-jury: 100%.

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

Chief counsel in Alcohol Beverage Control Act matters and environmental/agricultural permitting matters. Associate counsel in health care matters.

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) United States v. Garries, General Court-Martial, USAF Academy, 1983. This was a capital murder case. I served as assistant trial counsel in this two and a half week General Court-Martial before a ten member jury. Over 30 fact and expert witnesses presented evidence. I conducted the direct examination of seven prosecution witnesses, including a forensic chemist. I also had primary responsibility for opposing a defense motion for dismissal based on lack of jurisdiction and presented the oral argument on the issue of priest-penitent privilege that arose unexpectedly during the course of the proceeding. Airman Garries was convicted of premeditated murder and was sentenced to confinement for life.

(b) United States v. Mayes, General Court-Martial, USAF Academy, 1982. This was a three day prosecution of an Air Force Academy cadet for theft and forgery. The case was significant because it was the first time in over 10 years that a cadet was criminally prosecuted by the Air Force. Prior to the Mayes case, cadets who committed criminal acts were administratively discharged from the Air Force or disenrolled for violating the Academy Honor Code. The conviction that resulted from the case was significant because it demonstrated to the Wing of Cadets that theft, especially from their fellow cadets, would be criminally prosecuted.

(c) Clark, et. al. v. United States, U.S. District Court, Western District of Washington, 1986.

This case was significant because it was the first "toxic tort" case brought against the United States Department of Defense. The plaintiffs alleged that contaminated groundwater from an old landfill at McChord AFB, Washington contaminated their drinking water well. At the time of this proceeding I was serving as Chief, Environmental Torts at the Air Force Claims and Tort Litigation Staff. The Department of Justice assigned me to the DOJ trial team for this case and I was responsible for the preparation of all Air Force fact witnesses. The judge-only trial lasted two weeks and resulted in a finding against the United States with a small monetary award to the plaintiffs.

- (d) Valley Proteins d/b/a Carolina By-Products v. DHEC, 03-ALJ-07-0216-CC, 2004.

This was an appeal of an Administrative Order issued by DHEC to Carolina By-Products. The appeal was based on DHEC exceeding the statutory authority granted by the General Assembly in the Pollution Control Act. The day before the scheduled hearing, DHEC decided to withdraw the Administrative Order. Before consenting to the withdrawal, Carolina By-Products insisted on a Stipulated Order of Dismissal in which DHEC agreed to grant Carolina By-Products immunity from administrative and civil penalties for any future spills or discharges of raw material or offal from trailers during transportation. The case was significant because it resulted in DHEC acknowledging limits on its authority under the Pollution Control Act.

- (e) Wasteco v. DHEC, 06-ALJ-07-0421-CC, 2007.

This was an appeal of a DHEC decision that a proposed construction and demolition landfill was not consistent with a county's solid waste management plan. In finding in favor of our client, the Administrative Law Judge agreed with our client's position that DHEC has exclusive authority to issue, deny, revoke or modify solid waste permits and DHEC may not delegate this authority to local governments. This case also was significant because it was the first case interpreting the interplay between the Solid Waste Policy and Management Act and local ordinances.

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  
None.
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.  
None.
22. Have you ever held judicial office? No.
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.  
Not applicable.



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  
Yes. Elected to Williamsville Central School District Board of Education, Williamsville, New York. Served 1999-2000. During the time I held office, New York did not require the filing of a report similar to the State Ethics Commission report.
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?  
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? Yes.  
United States Air Force.  
Cadet, United States Air Force Academy 1969-1973  
Student, Cooperative Master's Program, University of Pittsburgh 1973-1974.  
Undergraduate Navigator Training, Mather AFB, CA 1974-1975  
Navigator, 22<sup>nd</sup> Military Airlift Squadron, Travis AFB, CA 1975-1978.
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 to all questions.

34. Have you ever been sued, either personally or professionally, that is, have you ever been named as defendant or respondent in any court of law. No.
36. 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. None.
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. None.
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.  
\$42.00, U.S. Postage Stamps, February 9, 2009.
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 to both questions.
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? 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 Administrative and Regulatory Law Association
  - (b) Richland County Bar Association
  - (c) American Bar Association
  - (d) John Belton O'Neall Inn of Court
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) Town Attorney, Town of Blythewood
  - (b) Air Force Association
  - (c) St. Joseph Catholic Church
  - (d) United States Air Force Academy Association of Graduates
  - (e) American Red Cross of Central South Carolina, Development Committee
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.
- Between the ages of 18 and 42 I served in the United States Air Force, rising from the rank of Basic Cadet to Lieutenant Colonel. Throughout my Air Force career I adopted and tried to internalize the Air Force's core values – "Integrity First, Service Before Self, Excellence in All We Do." These core values continued to guide my life after leaving the Air Force while serving as an attorney for the New York State Department of Environmental Conservation, a hearing officer for the Department of Social Services, Vice President of a School District's Board of Education, Town Attorney for the Town of Blythewood, and Special Counsel with McNair Law Firm.
- Whatever success I have achieved in my professional and personal life has been the result of applying these core values. I will continue to apply these values in the following ways if I am fortunate enough to be elected to a seat on the South Carolina Administrative Law Court.
- Integrity is the foundation of an independent, trusted and respected judiciary. A judge with integrity is courageous, honest, responsible, and accountable for his actions. The judge with integrity will do what is right, even when no one is looking, or his decision may be unpopular. A judge without integrity cannot be effective.
- Service Before Self means that a judge's professional duties take precedence over personal desires. A judge's professional duties are to follow the law, respect others, refrain from displays of anger, exercise self-control, and demonstrate faith in the judicial system.
- Excellence in All We Do requires a judge to set the example for all who appear in court. Knowledge of the law and legal procedure is paramount, but only a judge who constantly strives for excellence is in a position to demand

excellence from the attorneys, agency staff, and court staff who appear in the courtroom.

I expect serving as an Administrative Law Judge will present challenges, but I will approach these challenges with integrity, service, and legal competence – the core values I have applied to conduct my personal and professional life.

49. References:

- (a) Wachovia Bank
- (b) Bill Youngblood,  
McNair Law Firm, P.A.  
1301 Gervais Street  
Columbia, South Carolina 29201  
803-799-9800.
- (c) Julie McIntyre  
DHEC  
2600 Bull Street  
Columbia, South Carolina 29201  
803-898-3350.
- (d) William A. White, Moore and VanAllen  
100 North Tyron St., Suite 4700  
Charlotte, North Carolina 28202  
704-331-1098
- (e) James K. Lehman  
Nelson Mullins Riley & Scarborough, LLC  
P.O. Box 11070  
Columbia, South Carolina, 29211  
803-255-5564

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/ Lee W. Zimmerman

Date: 03/09/09

**JANE SHULER - Amendment to PDA, Question 49(a)**

**From:** "Zimmerman, Lee" <LZimmerman@MCNAIR.NET>  
**To:** 'JANE SHULER' <SHULERJ@scsenate.org>  
**Date:** 3/31/2009 6:00 PM  
**Subject:** Amendment to PDA, Question 49(a)  
**Attachments:** ecard\_header.gif

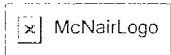
Ms. Shuler,

Please amend my response to Question 49 of by PDQ, by replacing Wachovia Bank with Pentagon Federal Credit Union. The mailing address for the Pentagon Federal Credit Union's home office is: Box 1432, Alexandria, VA 22313-2032. The package delivery address is 2930 Eisenhower Avenue, Alexandria, VA 22314. The Credit Union's telephone number is: 1-800-247-5626.

I will forward the letter I receive from them to you immediately upon receipt.

Thank you for your assistance in this matter.

Lee Zimmerman



Lee W. Zimmerman  
Special Counsel  
lzimmerman@mcnair.net

**McNair Law Firm, P.A.**  
**Columbia Office** 1301 Gervais Street | 11th Floor | Columbia, SC 29201  
803 799 9800 Main | 803 753 3219 Fax  
**Mailing** Post Office Box 11390 | Columbia, SC 29211  
VCard | Bio URL | Web site

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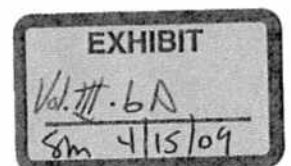
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JUDICIAL MERIT SELECTION COMMISSION  
Sworn Statement to be included in Transcript of Public Hearings

Administrative Law Court  
(New Candidate)

Full Name: Lee W. Zimmerman  
Business Address: 1301 Gervais Street, 11<sup>th</sup> Floor  
Columbia, SC 29201  
Business Telephone: 803-799-9800

1. Do you plan to serve your full term if elected? Yes.
2. Do you have any plans to return to private practice one day? No.
3. Have you met the Constitutional requirements for this position regarding age, residence, and years of practice? Yes.
4. What is your philosophy regarding *ex parte* communications? Are there circumstances under which you could envision *ex parte* communications being tolerated? *Ex parte* communication should never be allowed concerning substantive matters or matters on the merits in pending or impending proceedings. *Ex parte* communications concerning non-substantive matters or matters not on the merits may be tolerated only in those rare circumstances when all parties cannot be included in the communications and no party will gain an advantage as a result of the *ex parte* communication. In such a circumstance all non-participating parties must be promptly advised of the communication and be given an opportunity to respond. *Ex parte* communication may also be allowed with non-parties only in circumstances as discussed in Canon 3 of the Code of Judicial Conduct, i.e., with a disinterested expert on the law applicable to the pending action followed by disclosure to the parties, with court personnel or other judges, or when all parties consent to *ex parte* communication in mediation or settlement efforts.
5. What is your philosophy on recusal, especially in situations in which lawyer-legislators, former associates, or law partners are to appear before you? Recusal is appropriate in those cases in which a judge's impartiality might reasonable be questioned on the bases of personal bias or prejudice because of a pre-existing relationship with a party or a lawyer, or a personal or economic interest in the outcome of the case. In the circumstance where a lawyer-legislator, former associate, or law partner is expected to appear before the court, potential impartiality would have to be decided on a case-by-case basis, evaluating factors such as the judge's existing relationship with the individuals and whether the judge was associated with the individuals when the individuals began handling the case.



6. 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? A judge is required to perform judicial duties without bias or prejudice. While I would carefully evaluate a party's recusal request, unless there was actual bias or prejudice I would usually not grant such a request. Granting such a motion solely on the basis of an "appearance" of bias would result in a judge who was a former agency lawyer never hearing a proceeding involving the judge's former agency.
7. If elected, what standards would you set for yourself regarding the acceptance of gifts or social hospitality?  
Neither I nor my spouse would accept a gift from anyone or any organization which may reasonably be expected to appear before the Administrative Law Court or who has an interest in a matter before the Court. I would not accept a social hospitality invitation unless I or my spouse personally knows the inviter and the inviter or the inviter's organization does not and is not reasonably expected to appear before the Court or have a direct interest in a matter before the Court.
8. How would you handle a situation in which you became aware of misconduct of a lawyer or of a fellow judge?  
Misconduct must never be ignored. The circumstances of the misconduct and how I became aware of the misconduct would control what action I would find necessary to take. Actions range from directly communicating with the judge or lawyer who committed the misconduct to immediately reporting the judge or lawyer to the appropriate discipline authority when the misconduct raises a substantial question as to the judge's fitness for office, or the lawyer's honesty, trustworthiness or fitness as a lawyer.
9. Are you affiliated with any political parties, boards or commissions that, if you are elected, would need to be re-evaluated? No.
10. Have you engaged in any fund-raising activities with any political, social, community, or religious organizations?  
Yes. American Red Cross Development Committee.  
St. Joseph Church Capital Campaign.
11. How would you handle the drafting of orders?  
A judge is responsible for every order the judge issues, and therefore the judge is ultimately responsible for the drafting of the orders. However, except for ministerial orders or very straight-forward decisions, input from the parties is important and assists in judicial efficiency. If, at the end of the hearing on the issue before the court, I have made a decision as to the prevailing position, I would ask the prevailing party to prepare a proposed order, send it to the Court and to opposing counsel, and give opposing counsel appropriate time to

submit written comments on the proposed order. After reviewing the proposed order and comments, I would draft the final order. In the event I had not decided all the issues before me at the conclusion of the hearing, I would ask both parties to submit a proposed order to the Court and allow both parties to submit written comments on opposing counsel's order. After reviewing the proposed orders and comments, I would draft the final order.

12. What method would you use to ensure that you and your staff meet deadlines? All pending matters and deadlines would be reviewed during a weekly status meeting with staff. At this meeting, matters would be prioritized based on the complexity of the actions needed to meet deadlines. Work hours and assignments will be adjusted as necessary to ensure deadlines are met.
13. What is your philosophy on "judicial activism," and what effect should judges have in setting or promoting public policy?  
Judges should apply and enforce the law as written, enacted and intended by the General Assembly. The General Assembly's intent should be ascertained primarily from the plain language of the statute or regulation. Words used in a statute or regulation should be given their plain and ordinary meaning without resort to subtle or forced construction to limit or expand the scope of the statute. If the language of the statute or regulation is clear and unambiguous, the Judge should apply the law as written and should not look for or impose another meaning. The bottom line is that the law should be interpreted consonant with the purpose, design and intent of the legislature.
14. Canon 4 allows a judge to engage in activities to improve the law, legal system, and administration of justice. What activities would you plan to undertake to further this improvement of the legal system?  
First and most importantly, I would support the Chief Judge of the Administrative Law Court in efforts to continually improve the functioning of the Administrative Law Court. I also will participate in the activities of the South Carolina Administrative and Regulatory Law Association, the Administrative Law Section of the South Carolina Bar, and the John Belton O'Neall Inn of Court. Within the bounds of the Code of Judicial Conduct, I would make a special effort to offer guidance to newly admitted attorneys in presenting an effective case to the Court. This may include minimal guidance during the proceeding, but also a standing offer to meet with the attorney after the conclusion of the proceeding to provide more formalized feedback.
15. Do you feel that the pressure of serving as a judge will strain personal relationships (i.e. spouse, children, friends, or relatives)? How would you plan to address this? No.



16. Are you involved in any active investments from which you derive additional income that might impair your appearance of impartiality?  
No.
17. Would you hear a case where you or a member of your family held a de minimis financial interest in a party involved?  
Yes, unless I was convinced there was a very compelling reason not to hear the case. Under the Code of Judicial Conduct "de minimis" denotes an insignificant interest that could not raise reasonable question as to a judge's impartiality. The Canons require a judge to disqualify himself only when the judge or his family has a more than de minimis interest that could be substantially affected by the proceeding.
18. Do you belong to any organizations that discriminate based on race, religion, or gender? No.
19. Have you met the mandatory minimum hours requirement for continuing legal education courses? Yes.
20. What percentage of your legal experience has dealt with cases that appear before the Administrative Law Court? Please describe to the Commission your experience in these areas.  
5-10%. All cases before the Administrative Law Court occurred between 2002 and 2009. I have been involved as lead counsel or assistant counsel in five environmental/agricultural permit matters (DHEC), two Certificate of Need matters (DHEC), and three beer, wine, alcohol enforcement matters (DOR).
21. What do you feel is the appropriate demeanor for a judge?  
A judge should set the example for all court personnel, attorneys and parties to the proceeding and witnesses appearing before the Court. A judge should require order, decorum, and civility in all dealings, both in the courtroom and outside the courtroom. A judge should demonstrate competence and confidence and should be patient, dignified and courteous to all.
22. 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?  
The rules apply at all times, in both professional and personal matters.
23. Do you feel that it is ever appropriate to be angry with a member of the public who would appear before you? Is anger ever appropriate in dealing with attorneys or a pro se litigant? It is never appropriate for a judge to express anger. A judge may often find it necessary to be stern and deliberate with counsel and pro se litigants, but should never become angry or express uncontrollable rage.

24. 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? As of March 6, I have spent \$42.00 on U.S. Postage Stamps.
25. If you are a sitting judge, have you used judicial letterhead or the services of your staff while campaigning for this office?  
Not Applicable.
26. Have you sought or received the pledge of any legislator prior to this date? No.
27. Have you sought or been offered a conditional pledge of support by any legislator pending the outcome of your screening? No.
28. 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, to both questions.
29. Have you contacted any members of the Judicial Merit Selection Commission? No.
30. 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/Lee W. Zimmerman

Sworn to before me this 9<sup>th</sup> day of March, 2009.

Notary Public for S.C.

My Commission Expires: 7/29/2015