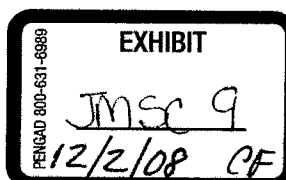


JUDICIAL MERIT SELECTION COMMISSION  
PERSONAL DATA QUESTIONNAIRE

Court, Position, and Seat # for which you are applying: Circuit Court, 14th Judicial Circuit, Seat 2

1. NAME: Carmen Mullen  
BUSINESS ADDRESS: 101 Ribaut Road, Room 205  
Beaufort, SC 29901  
E-MAIL ADDRESS: cmullenj@sccourts.org  
BUSINESS NUMBER: (843) 470-5244
2. Date of Birth: 1968  
Place of Birth: West Covina, California
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?
5. Family Status: Married on July 26, 2004, George Edward Mullen, Sr.  
Never divorced. Four children.
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) Indiana University, 1986 - 1990, B.A. in English and Speech Communications;
  - (b) Clemson University, Coursework Fall 1991 - Summer 1992, Wrote Master's Thesis in Summer/Fall 1997, Received M.A. in English in December 1997;
  - (c) University of South Carolina, School of Law, 1992 - December 1994, J.D.
8. List the states in which you have been admitted to practice law and the year of each admission. Also list any states in which you took the bar exam but were never admitted to the practice of law. If you took the bar exam more than once in any of the states listed, please indicate the number of times you took the exam in each state.  
South Carolina, May 9, 1995. Illinois, June 13, 1996
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) Delta Delta Delta Sorority, 1987 - 1990;
  - (b) Graduate Teaching Assistantship at Clemson University  
Taught two sections of Freshman Composition "Elements of Argument,"  
Spring Semester 1992;



- (c) Assistant to the Director of the Southern Literature Writer's Conference at Clemson University, Summer 1992;
  - (d) Research Assistant to Professor William J. Quirk, University of South Carolina School of Law, Summer 1994;
  - (e) Law Clerk while in law school at Bolt, Popowski, McCulloch & Strom, 1993 - 1995, Columbia, SC.
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.
- (a) 2008 Annual Judicial Conference, 8/21/08;
  - (b) 2008 Judges Conference, 5/15/08;
  - (c) 6th Annual Civil Law Update, 1/25/08;
  - (d) 23rd Annual SC Criminal Law Update, 1/25/08;
  - (e) 2007 Annual Judicial Conference, 8/22/07;
  - (f) National Judicial College, General Jurisdiction, 7/15 - 26/2007;
  - (g) 2007 Judges Conference, 5/16/07;
  - (h) Seminar for Chief Judges for Administrative Purposes, 2/22/07;
  - (i) 5th Annual Civil Law Update, 1/26/07;
  - (j) 22nd Annual Criminal Law Update, 1/26/07;
  - (k) 2006 Annual Judicial Conference, 8/23/06;
  - (l) 2006 Orientation for New Circuit Court Judges, 7/10/06;
  - (m) 20th Circuit Court Judges' Conference, 5/10/06;
  - (n) Solo & Small Firm Practitioners, 1/28/06;
  - (o) Torts and Insurance Practice, 1/28/06;
  - (p) Construction for Construction Lawyers, 9/30/05 - 10/1/05;
  - (q) Hot Topics in Construction, 12/3/04;
  - (r) U.S. Sentencing Guidelines Training, 7/22/03;
  - (s) S.C. Trial Lawyers Association Annual Convention, 8/7/03;
  - (t) South Carolina Bar "Litigation Technology," 11/6/03.
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. I am scheduled to speak at the Solicitor's Conference on September 29, 2008 on "Recent South Carolina Judicial Decisions." I am also scheduled to speak at the South Carolina Association of Defense Lawyers at Amelia Island on November 14, 2008 on the newly created Multi-Week Trial Docket.
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.
- (a) South Carolina State Court, May 9, 1995;
  - (b) State of Illinois, June 13, 1996;
  - (c) U.S. District Court for the District of South Carolina, November 6, 1998;

- (d) U.S. District Court for the Southern District of Mississippi, August 6, 1999.
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.  
My legal experience since graduation is as follows:
- (a) Law Clerk to Honorable L. Casey Manning, Circuit Court Judge for the Fifth Judicial Circuit, April 1995 - August 1996. Assisted Judge in all research, writing orders, scheduling, etc.;
  - (b) Charleston County Public Defender's Office, Assistant Public Defender, August 1996 - December 1997. Handled caseload of 250+ criminal defendants for misdemeanor and felony crimes including Murder, CSC 1st, Burglary 1st, and ABHAN;
  - (c) South Carolina House of Representatives, Labor, Commerce & Industry Committee, Staff Attorney, December 1997 - October 1998. Duties include researching legal affect of pending bills before legislature and instructing Members on law and drafting some legislation when requested by Members;
  - (d) Uricchio, Howe, Krell, Jackson, Toporek & Theos, Associate, October 1998 - April 2000. Criminal and civil litigation practice in state and federal courts. Case types: Plaintiffs tort actions, contract disputes, criminal defense.;
  - (e) Berry, Tevis & Jordan, Partner, April 2000 - May 2001. Tort litigation including automobile accidents and some criminal defense;
  - (f) Carmen M. Tevis, LLC, Solo Practitioner, May 2001 - June 2006. Tort litigation, construction litigation, contract litigation, fraud litigation, and criminal defense in state and federal courts.
15. What is your rating in Martindale-Hubbell? My Martindale-Hubbell rating is "BV."
22. Have you ever held judicial office? Yes, July 17, 2006 to present. Circuit Court. Elected. General Civil and Criminal Jurisdiction.
23. If the answer to question 22 is yes, describe or list five of your most significant orders or opinions and give the citations if they were reported. Also list citations to any appellate review of these orders or opinions.
- (a) Willie Homer Stephens, Guardian ad Litem for Lillian Colvin, a minor v. CSX Transportation, Inc. and South Carolina Department of Transportation, Hampton County. Car versus train wreck wherein a car collided with a train and 12 year old passenger suffered traumatic brain injury. Significant in length of trial (3 weeks), extensive pre-trial matters, 60+ witnesses and a defense verdict in Hampton County!!;
  - (b) State v. Charles McCormick, Beaufort County. Defendant charged with Murder, Arson 2nd degree, Possession of a Weapon during a Violent Crime. Estranged husband allegedly shot wife and then attempted to

burn house down. Significant for extent of circumstantial evidence and media coverage;

- (c) Harbour Ridge Homeowners Association, Inv. v. North Harbour Development Corporation, Inc., et al., Horry County. Non-Jury Trial involving condominium project. Homeowner's Association suing Developer and General Contractor for negligent construction of 8 condominium buildings. Awarded \$1,908,354.00. Issues involved: statute of limitations and individual contractor liability. Significant as to the competing measure of damages and that all parties agreed to allow me to try it non-jury;
- (d) State v. Paris Avery, Beaufort County. Charged with Homicide by Child Abuse. Mother allegedly gave 15 month old child six times the prescribed amount of prescription eczema medication culminating in death. To convict, jury must find extreme indifference to human life. Again, extensive pre-trial media coverage given nature of charge;
- (e) State v. Lloyd Isaac, Jasper County. Prison rape case wherein employee of Ridgeland Correctional Institute was held hostage and repeatedly raped by an inmate serving a fifty (50) year sentence. Significant in the need for heightened security due to violent tendencies of the Defendant and sensitivity of the case.

24. Have you ever held public office other than judicial office? None.

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. None.

26. Have you ever been an unsuccessful candidate for elective, judicial, or other public office? No.

27. Have you ever been engaged in any occupation, business, or profession other than the practice of law, teaching of law, or holding judicial or other public office?

- (a) Upon graduating from undergraduate school, I worked as a tour guide for American Trans Air traveling with tourists to various locations including Paris, Caribbean, and Mexico, 1990;
- (b) Joined Cable & Wireless Communications (owned by British Telecommunications) in outside sales - including cold-calling, selling long distance services to medium and large-sized companies. Left to attend graduate school at Clemson University beginning August 1991;
- (c) While at Clemson University studying for my Masters degree, I held a paid assistantship teaching two sections of Freshman Composition titled "The Elements of Argument" during the spring semester, 1992;
- (d) Taught one section of Freshman English at Charleston Southern the fall semester of 1998 in addition to working at Uricchio, Howe & Krell as an associate.

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 that you have, or have had in the past, that could constitute or result in a possible conflict of interest in the position you seek. Explain how you would resolve any potential conflict of interest. None.
31. Have you ever been arrested, charged, or held by federal, state, or other law enforcement authorities for violation or for suspicion of violation of any federal law or regulation, state law or regulation, or county or municipal law, regulation, or ordinance, or any other law, including another country's law? No.
32. Have you, to your knowledge, ever been under federal, state, or local investigation for possible violation of a criminal statute? No.
33. Has a tax lien or other collection procedure ever been instituted against you by federal, state, or local authorities? Have you ever defaulted on a student loan? Have you ever filed for bankruptcy? No.
34. Have you ever been sued, either personally or professionally? 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. None.
41. List the amount and recipient of all contributions made by you or on your behalf to members of the General Assembly since the announcement of your intent to seek election to a judgeship. None.

42. Have you directly or indirectly requested the pledge of any member of the General Assembly as to your election for the position for which you are being screened? Have you received the assurance of any public official or public employee that they will seek the pledge of any member of the General Assembly as to your election for the position for which you are being screened? No.
43. Have you requested a friend or colleague to contact members of the General Assembly on your behalf? Are you aware of any friends or colleagues contacting members of the General Assembly on your behalf? No to both.
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 Women Lawyers Association;
  - (b) Association of Trial Lawyers of America;
  - (c) National Association of Women Judges;
  - (d) Beaufort County Bar Association.
47. List all civic, charitable, educational, social, and fraternal organizations of which you are or have been a member during the past five years and include any offices held in such a group, any professional honors, awards, or other forms of recognition received and not listed elsewhere.
- (a) Hilton Head Heroes;
  - (b) Hilton Head High School Booster Club;
  - (c) Providence Presbyterian Church.
48. Provide any other information which 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. This information may include how your life experiences have affected or influenced the kind or type of judge you have been or plan to be.
- I work hard, prepare in advance and am known to be fair. My courtroom experience as a trial lawyer has served me well on the bench over the last two (2) years. I am honored to have the opportunity to seek re-election to the South Carolina Judiciary and if permitted, to continue to serve the people of South Carolina.
49. References:
- (a) W. Daniel Holland, President of Coastal States Bank  
5 Bow Circle, Suite 3  
Hilton Head Island, SC 29928  
(843) 341-9951;
  - (b) Elizabeth Smith, Beaufort County Clerk of Court

Post Office Box 1128  
Beaufort, SC 29901  
(843) 470-5218;

- (c) Ann Marie Jenkins  
Executive/Vice President of Harbor Light Lending Group  
One Corpus Christie Place, Suite 115  
Hilton Head Island, SC 29928  
(843) 342-3900;
- (d) Roberta Karnofsky, M.D.  
Anesthesia Associates  
125 Doughty Street, Suite 420  
Charleston, SC 29903  
(843) 723-3441;
- (e) A. Thomas Bundy, M.D.  
Medical Quarters  
15 Hospital Center  
Hilton Head Island, SC 29926  
(843) 689-9200.

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/Carmen Mullen

Date: 09/19/08

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

Circuit Court  
(Incumbent)

Full Name: Carmen Tevis Mullen  
Business Address: 101 Ribaut Road, Room 205  
Beaufort, SC 29901  
Business Telephone: (843) 470-5244

1. Why do you want to serve another term as a Circuit Court Judge? To be a good judge you need to love the law and people. Sitting as a Circuit Court Judge this past 2 years has enabled me to serve my state and community while doing what I love, studying and applying the law. I would be honored to be able to continue this important work to ensure all persons receive fair and impartial justice.
2. Do you plan to serve your full term if re-elected? Yes.
3. Do you have any plans to return to private practice one day? No.
4. Have you met the Constitutional requirements for this position regarding age, residence, and years of practice? Yes.
5. What is your philosophy regarding *ex parte* communications? Are there circumstances under which you could envision *ex parte* communications being tolerated? *Ex parte* communications about the merits of a matter are never proper. My law clerk and administrative assistant handle scheduling and other administrative matters when appropriate.
6. What is your philosophy on recusal, especially in situations in which lawyer-legislators, former associates, or law partners are to appear before you? A judge must recuse herself if she is unable to objectively and impartially hear a case. As to lawyer-legislators, if there is no direct connection and no appearance of bias may be insinuated, I believe a judge may sit. Given the length of time since I practiced, I disclose if cases involve former partners or associates and ask if opposing counsel has objections and if so, I will not hear the case/matter.
7. If you disclosed something that had the appearance of bias, but you believed it would not actually prejudice your impartiality, what deference would you give a party that requested your recusal? Would you grant such a motion? Substantial deference would be given and most likely, I would recuse.
8. How would you handle the appearance of impropriety because of the financial or social involvement of your spouse or a close relative? Recuse if there is any question whatsoever.



9. What standards have you set for yourself regarding the acceptance of gifts or social hospitality? I do not accept gifts or food. As to social hospitality, I always pay my own way.
10. How would you handle a situation in which you became aware of misconduct of a lawyer or of a fellow judge? Report. It is required under the Canons of Judicial Conduct and is quite simply the right thing to do.
11. Are you affiliated with any political parties, boards or commissions that, if you were re-elected, would need to be re-evaluated? No.
12. Do you have any business activities that you would envision remaining involved with if reelected to the bench? No.
13. How do you handle the drafting of orders? I often request proposed orders from the parties and edit. Sometimes I request my law clerk to draft proposed orders for my review and at times I draft them myself.
14. What methods do you use to ensure that you and your staff meet deadlines? We calendar everything on one master calendar which is accessible by all office staff by laptops and Blackberry while away from the office.
15. What is your philosophy on "judicial activism," and what effect should judges have in setting or promoting public policy? It is not a judge's place to set public policy - that is a legislative function. Judges apply and interpret the law only.
16. Canon 4 allows a judge to engage in activities to improve the law, legal system, and administration of justice. What activities do you plan to undertake to further this improvement of the legal system? I speak at schools to discuss the legal system, constitutional issues and my role as a judge and various legal topics if requested.
17. Do you feel that the pressure of serving as a judge strains personal relationships (i.e. spouse, children, friends, or relatives)? How do you address this? Quite the opposite. It has allowed me greater insight and greater patience.
18. The following list contains five categories of offenders that would perhaps regularly appear in your court. Discuss your philosophy on sentencing for these classes of offenders.
  - a. Repeat offenders: Sentence more harshly than first time offenders, as they have already been given an opportunity to learn from their mistakes.
  - b. Juveniles (that have been waived to the circuit court): Age is one factor of many to be considered in sentencing.
  - c. White collar criminals: Stealing is stealing.
  - d. Defendants with a socially and/or economically disadvantaged background: I would consider background as one factor of many.
  - e. Elderly defendants or those with some infirmity: I would consider the age and infirmity as one factor among many.

19. Are you involved in any active investments from which you derive additional income that might impair your appearance of impartiality? No.
20. Would you hear a case where you or a member of your family held a *de minimis* financial interest in a party involved? No.
21. Do you belong to any organizations that discriminate based on race, religion, or gender? No.
22. Have you met the mandatory minimum hours requirement for continuing legal education courses? Yes.
23. What do you feel is the appropriate demeanor for a judge? Patient, courteous, fair yet firm, and diligent.
24. Do the rules that you expressed in your previous answer apply only while you are on the bench or in chambers, or do these rules apply seven days a week, twenty-four hours a day? It is a lifestyle - 7 days a week, 24 hours a day.
25. Do you feel that it is ever appropriate to be angry with a member of the public, especially with a criminal defendant? Is anger ever appropriate in dealing with attorneys or a pro se litigant? No. Anger indicates a lack of control and lack of professionalism and is not an appropriate response, especially in a courtroom.
26. How much money have you spent on your campaign? If it is over \$100, has that amount been reported to the House and Senate Ethics Committees? \$0.
27. While campaigning for this office, have you used judicial letterhead or the services of your staff for your campaign? No.
28. Have you sought or received the pledge of any legislator prior to this date? No.
29. Have you sought or been offered a conditional pledge of support by any legislator pending the outcome of your screening? No.
30. Have you asked any third parties to contact members of the General Assembly on your behalf before the final and formal screening report has been released? Are you aware of any friends or colleagues contacting members of the General Assembly on your behalf? No to both.
31. Have you contacted any members of the Judicial Merit Selection Commission? No.
32. Are you familiar with the 48-hour rule, which prohibits a candidate from seeking pledges for 48 hours after the draft report has been submitted? Yes.

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

s/Carmen Tevis Mullen

Sworn to before me this 19<sup>th</sup> day of September, 2008.

Notary Public for South Carolina  
My commission expires: 7/23/2011

JUDICIAL MERIT SELECTION COMMISSION  
AMENDED PERSONAL DATA QUESTIONNAIRE

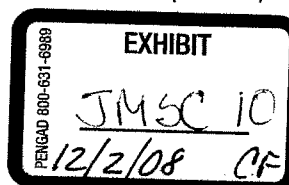
Court, Position, and Seat # for which you are applying: Circuit Court Judge,  
Resident Seat #2, 15th Judicial Circuit

1. NAME: Mr. Benjamin H. Culbertson  
BUSINESS ADDRESS: P.O. Box 421270; Georgetown, SC 29442  
E-MAIL ADDRESS: bculbertsonj@scccourts.org  
BUSINESS NUMBER: (843) 545-3030
  
2. Date of Birth: 1959  
Place of Birth: Laurens, SC
  
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 on September 14, 1985, to Renee Kinsey Culbertson.  
Never divorced. Three children.
  
6. Have you served in the military? I have not served in the military.
  
7. List each college and law school you attended, including the dates of your attendance, the degrees you received, and if you left an institution without receiving a degree, the reason for your departure.
  - (a) The Citadel  
August 1977 - May, 1981, B.A., History;
  - (b) University of South Carolina, School of Law  
August, 1981 - May, 1984, Juris Doctor.
  
8. List the states in which you have been admitted to practice law and the year of each admission. Also list any states in which you took the bar exam but were never admitted to the practice of law. If you took the bar exam more than once in any of the states listed, please indicate the number of times you took the exam in each state.

I am admitted to practice law in South Carolina only. I was admitted to practice law in South Carolina in 1984. The South Carolina Bar exam is the only bar exam I have ever taken. I took the South Carolina Bar exam once.
  
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.

University of South Carolina School of Law:

  - (a) Elected representative of Legislative Council (1983-1984);
  - (b) Job Placement Committee (1983-1984);
  - (c) Student Bar Association (1981-1982; 1983-1984);
  - (d) Phi Delta Phi Legal Fraternity (1983-1984);
  - (e) Phi Delta Phi Social Committee (1983-1984);
  - (f) Karen Lee Scholarship Committee (1982).



The Citadel:

- (a) Elected representative to Senior Class Board of Directors (1980-1981);
- (b) Elected representative to Junior Class Board of Directors (1979-1980).

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) 2008 Judicial Conference	08/20-22/2008;
(b) SC Circuit Judge Assn. Annual Meeting	05/14-16-2008;
(c) Tips From The Bench	02/15/2008;
(d) 6th Annual Civil Law Update	01/25/2008;
(e) 23rd Annual Criminal Law Update	01/25/2008;
(f) 2007 Judicial Conference	08/22/2007;
(g) Orientation School for New Judges	07/11/2007;
(h) Master-In-Equity Annual Meeting	02/23/2007;
(i) Master-In-Equity Bench/Bar Seminar	10/13/2006;
(j) Horry County Bar Family Court Seminar	12/09/2005;
(k) Master-In-Equity Bench/Bar Seminar	10/14/2005;
(l) Master-In-Equity Annual Meeting	02/25/2005;
(m) Judicial Oath of Office (Supreme Court)	12/10/2004;
(n) Master-In-Equity Bench/Bar Seminar	10/15/2004;
(o) New Lawyer Oath (SCTLA Annual Convention)	08/06/2004;
(p) Master-In-Equity Annual Meeting	02/06/2004;
(q) Title Insurance Claims (Chicago Title Ins. Co.)	11/18/2003;
(r) Master-In-Equity Bench/Bar Seminar	10/17/2003;
(s) SCTLA Annual Convention	08/07/2003.

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. Do NOT attach a separate list.

- (a) At the Horry County Family Court seminar on 12/09/2005, I gave a lecture on "Writing Domestic Orders";
- (b) At the Tips From The Bench seminar on 02/15/2008, I gave a lecture on civil trials from a circuit judge's perspective.

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

AMENDED: 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.

11/15/2004 - admitted to practice in all state courts in South Carolina.

AMENDED: 11/15/1984 - admitted to practice in all state courts in South Carolina.

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) From 1/14/1985 until 12/31/1990, I was an associate attorney and, then, a partner with the law firm of Schneider and O'Donnell, P.A. I maintained a general practice in all areas of law except tax law.
- (b) From 1/1985 until 4/1996, I served as Assistant Municipal Court Judge for the City of Georgetown, SC. I presided over criminal cases occurring in the city where the penalties for convictions were a fine of not more than \$500.00 and/or imprisonment of not more than 30 days. I also conducted preliminary hearings and set bond for defendants charged with General Sessions offenses, except for capital murder cases and charges with a penalty of life imprisonment.
- (c) From 1/1/1991 until 6/30/2007, I was a sole practicing attorney with the firm of Benjamin H. Culbertson, P.A. I maintained a general practice in all areas of law except bankruptcy, tax law and social security claims.
- (d) From 4/1996 until 6/30/2007, I served as Master-In-Equity for Georgetown County, SC. I presided over non-jury civil cases that were referred to me and had the same jurisdiction and authority as a Circuit Court Judge presiding over the case.
- (e) From 7/2001 until 6/30/2007, I served as Special Circuit Court Judge under appointment from The Honorable Jean Toal, Chief Justice of the South Carolina Supreme Court. I had the same jurisdiction and authority as a Circuit Court Judge over matters pending in Georgetown County, except for presiding over trials in General Sessions Court.
- (f) From 7/5/2007 to the present, I have been a circuit court judge, elected as resident circuit judge for the 15th judicial circuit, seat number 2.

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

- (a) If you are a candidate for Family Court, please provide a brief written description of your experience within each of the following Family Court practice areas: divorce and equitable division of property, child custody, adoption, abuse and neglect, and juvenile justice. Include information about cases you have handled in each of these practice areas, or if you have not practiced in an area, describe how your background has prepared you to preside over such matters as a Family Court Judge.  
Not applicable.
- (b) If you are a candidate for Circuit Court, please provide a brief written description of your experience in criminal matters, including any cases handled over the past five years and include a brief description of the issues involved. Further, please provide a brief written description of your experience in civil matters, including any cases handled over the past five years and include a brief description of the types of matters handled, issues involved, and procedural history. Please include

information such as the primary areas in civil court in which you practice, whether you represent plaintiffs or defendants, or both. You may go back further than five years if you feel it would assist the Commission with its assessment of your experience. If you lack experience in an area, describe how your background has prepared you to preside over such matters as a Circuit Court Judge, or how you would compensate for your lack of experience in this area.

Not applicable.

- (c) If you are a candidate for Master-In-Equity, please provide a brief written description of your experience in the Master's court, including any cases handled over the past five years and include a brief description of the issues involved. Please include the frequency of your appearances before a Master-In-Equity.

Not applicable.

- (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.

Not applicable.

15. What is your rating in Martindale-Hubbell?

I am currently a member of the judiciary. My last available rating was "BV."

22. Have you ever held judicial office?

- (a) From 1/1985 until 4/1996, I served as Assistant Municipal Court Judge for the City of Georgetown, SC. I was appointed by Georgetown City Council and I presided over criminal cases occurring in the city where the penalties for convictions were a fine of not more than \$500.00 and/or imprisonment of not more than 30 days. I also conducted preliminary hearings and set bond for defendants charged with General Sessions offenses, except for capital murder cases and charges with a penalty of life imprisonment;
- (b) From 4/1996 until 6/30/2007, I served as Master-In-Equity for Georgetown County, SC. I was appointed by the Governor of South Carolina, with the advise and consent of the South Carolina General Assembly. I presided over non-jury civil cases that were referred to me and had the same jurisdiction and authority as a Circuit Court Judge presiding over the case;
- (c) From 7/2001 until 6/30/2007, I served as Special Circuit Court Judge under appointment from The Honorable Jean Toal, Chief Justice of the South Carolina Supreme Court. I had the same jurisdiction and authority as a Circuit Court Judge over matters pending in Georgetown County, except for presiding over trials in General Sessions Court;
- (d) From 7/5/2007 to the present, I have been a circuit court judge. I was elected by the South Carolina General Assembly as resident circuit judge for the 15th judicial circuit, seat number 2.

23. If the answer to question 22 is yes, describe or list five of your most significant orders or opinions and give the citations if they were reported. Also list citations to any appellate review of these orders or opinions.
- (a) Power Products and Services Company, Inc. v. Robert A. Kozma, et al. (S.C. Court of Appeals, Opinion No. 4417, Filed 6/20/2008). In this case, the appellate court affirmed my granting the defendants' motion to dismiss for lack of personal jurisdiction;
  - (b) Stella Sue Roland, et al. vs. Heritage Litchfield, Inc., et al., 372 S.C. 161, 641 S.E.2d 465 (S.C. App.2007). In this case, eleven condominium owners sued the developer and general contractor for numerous causes of action after discovering mold in the firewall areas of their condominiums. I granted the plaintiffs partial summary judgment as to liability. The developer and general contractor appealed, claiming that disputed issues of material fact existed and that the plaintiffs had no standing for damages to the common areas since they did not own the common areas. On appeal, the South Carolina Court of Appeals affirmed my order granting summary judgment;
  - (c) Martha Geathers vs. 3V, Inc. and EBI Companies and Liberty Mutual Insurance Company, 371 S.C. 570, 641 S.E.2d 29 (S.Ct.2007). This case involves a dispute between two workers compensation carriers. EBI Companies (EBI) claims that Liberty Mutual Insurance Company (Liberty) is solely liable for injuries sustained by the plaintiff during the course of her employment with 3V, Inc., a company previously insured by EBI but currently insured by Liberty. Liberty claims that the liability should be apportioned between the two carriers. Liberty asserts that the plaintiff sustained her injury during the time that 3V, Inc. was insured by EBI and, then, aggravated that injury during the time 3V, Inc. was insured by Liberty. The full commission apportioned liability between the two carriers. On appeal to the Circuit Court, as Special Circuit Court Judge, I reversed the full commission and held Liberty solely liable. My ruling was based upon a finding that the employee had reached maximum medical improvement from her first injury and was released from her medical provider. Therefore, the second claim was not related to the first but, rather, a new claim based upon a second accident. My decision was reversed by the South Carolina Court of Appeals. However, the South Carolina Supreme Court reversed the South Carolina Court of Appeals and affirmed my decision;
  - (d) Patrick M. Siau, et al. vs. Kal Kassel, et al., 369 S.C. 631, 632 S.E.2d 888 (S.C.App.2006). In this case, the South Carolina Court of Appeals affirmed my decision, as Master-In-Equity, holding that the defendant had violated set-back restrictions under the county zoning ordinance and subdivision restrictive covenants when building his house. The defendant claimed that he had not violated set-back restrictions because he owned tidal property which adjoined his property and, thus, created



the necessary set-backs. I found that the defendant did not own the tidal property but, rather, that the tidal property was owned by the state under the "public use" doctrine;

(e) Richard Rife vs. Hitachi Construction Machinery Co., Ltd., et al., 363 S.C. 209, 609 S.E.2d 565 (S.C.App.2005). In this case, the South Carolina Court of Appeals affirmed my decision, as Special Circuit Court Judge, granting the defendant's motion for summary judgment. This is a products liability case wherein the plaintiff sued the defendant for the manufacturing of a defective product. The defendant was granted summary judgment because it manufactured the product in question abroad and sold it in a foreign market. The product was never intended for distribution in the United States but, the plaintiff's employer purchased the product on the secondary market and imported it into the United States.

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?

From 2004 to 2006, I was chairman of the Georgetown Election Commission. I have not held any other public office other than a judicial 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.

(a) From 1/14/1985 until 12/31/1990, I was an associate attorney and, then, a partner with the law firm of Schneider and O'Donnell, P.A. I maintained a general practice in all areas of law except tax law;

(b) From 1/1/1991 until 6/30/2007, I was a sole practicing attorney with the firm of Benjamin H. Culbertson, P.A. I maintained a general practice in all areas of law except bankruptcy, tax law and social security claims.

26. Have you ever been an unsuccessful candidate for elective, judicial, or other public office?

In 1998, I filed for Resident Seat #2, 15<sup>th</sup> Judicial Circuit, vacated by the retirement of Judge David Maring. I withdrew as a candidate when Judge Paula Thomas (who was an at-large judge) filed for the resident seat. When Judge Thomas was elected to the resident seat, I filed for her vacated at-large seat, as well as 2 other vacated at-large seats. Though I was found to be one of the three most qualified candidates in one of the at-large seat races, I withdrew voluntarily because Judge Buddy Nichols was the obvious candidate for election. On another occasion, I filed for an Administrative Law judgeship. Though I was found qualified by the JMSC, I was not one of the top three candidates.

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? No.
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 that you have, or have had in the past, that could constitute or result in a possible conflict of interest in the position you seek. Explain how you would resolve any potential conflict of interest. None.
31. Have you ever been arrested, charged, or held by federal, state, or other law enforcement authorities for violation or for suspicion of violation of any federal law or regulation, state law or regulation, or county or municipal law, regulation, or ordinance, or any other law, including another country's law? No.
32. Have you, to your knowledge, ever been under federal, state, or local investigation for possible violation of a criminal statute? No.
33. Has a tax lien or other collection procedure ever been instituted against you by federal, state, or local authorities? Have you ever defaulted on a student loan? Have you ever filed for bankruptcy? No.
34. Have you ever been sued, either personally or professionally?
  - (a) In 1993, I represented a husband in a divorce and custody case. After the case, both my client and I were sued by his ex-wife for alleged violation of the Omnibus Crime Bill. The ex-wife claimed that we had violated the statute by using wire-tapped phone conversations between her and her paramour during a motion hearing in the divorce trial. The trial court (in federal court) granted the ex-wife summary judgment but, on appeal to the U. S. District Court of Appeals, the appellate court reversed the summary judgment and granted summary judgment in favor of me.
  - (b) On another occasion, a case for supplementary proceedings was referred to me as Special Referee. After the supplementary proceedings, the defendant filed a *pro se* lawsuit against the circuit court judge who referred the case to the former Master-In-Equity, the former Master-In-Equity, the plaintiff's attorney and me. The complaint alleged some type of civil rights violation. The case was summarily 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.
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. None.
41. List the amount and recipient of all contributions made by you or on your behalf to members of the General Assembly since the announcement of your intent to seek election to a judgeship. None.
42. Have you directly or indirectly requested the pledge of any member of the General Assembly as to your election for the position for which you are being screened? Have you received the assurance of any public official or public employee that they will seek the pledge of any member of the General Assembly as to your election for the position for which you are being screened? No.
43. Have you requested a friend or colleague to contact members of the General Assembly on your behalf? Are you aware of any friends or colleagues contacting members of the General Assembly on your behalf? No.
44. Have you or has anyone acting on your behalf solicited or collected funds to aid in the promotion of your candidacy? 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 Circuit Court Judges Association (2007 to present);
  - (b) South Carolina Bar Association (1985 to present);
  - (c) Georgetown County Bar Association (1985 to 2007);  
President (2007); Secretary (1985-1986, 1989-1990);
  - (d) American Bar Association (1985-1992).
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) The Citadel Alumni Association;
- (b) The Citadel Brigadier Club;
- (c) Georgetown Cotillion Club;
  - President (2000-2001);
  - Vice President (1999-2000);
  - Secretary/Treasurer (1998-1999);
  - Executive Committee (1995-1998);
- (d) Winyah Indigo Society;
- (e) Duncan Memorial United Methodist Church.

48. Provide any other information which 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. This information may include how your life experiences have affected or influenced the kind or type of judge you have been or plan to be.

For the past 23 years, I have served as a member of the judiciary in some capacity. I gradually progressed from Assistant Municipal Court Judge, to Master-In-Equity, to Special Circuit Court Judge and, now Circuit Court Judge. I am a resident of Georgetown County. I now hold the seat to which I am seeking reelection and, since the creation of this judicial seat, it has been held by a Georgetown resident.

49. References:

- (a) Anderson Brothers Bank
  - 706 North Fraser St.
  - Georgetown, SC 29440
  - (843) 546-3652
- (b) James B. Moore, III
  - 333 East Bay St.
  - Georgetown, SC 29440
  - (843) 995-5000
- (c) Amy W. Hewitt
  - P.O. Box 421270
  - Georgetown, SC 29442
  - (843) 546-4477
- (d) Edward T. Kelley
  - E.F. Hucks & Associates, Inc.
  - 98 Center Marsh Lane, Suite 6B
  - Pawleys Island, SC 29585
  - (843) 235-8778
- (e) Donna M. Forehand
  - 606 Front Street
  - Georgetown, SC 29440
  - (843) 546-2900

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

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

s/Benjamin H. Culbertson

Date: 09/19/08

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

Circuit Court  
(Incumbent)

Full Name: Benjamin Hellams Culbertson  
Business Address: P.O. Box 421270  
Georgetown, SC 29442  
Business Telephone: (843) 545-3030

1. Why do you want to serve another term as a Circuit Court Judge?  
I have only served as a Circuit Court Judge (excluding my appointment as a Special Circuit Court Judge) since July, 2007. I have enjoyed my position immensely and feel that I am becoming a better judge with each term of court. I want to be a judge for the rest of my professional career.
2. Do you plan to serve your full term if re-elected?  
Yes.
3. Do you have any plans to return to private practice one day?  
No.
4. Have you met the Constitutional requirements for this position regarding age, residence, and years of practice?  
Yes.
5. What is your philosophy regarding *ex parte* communications? Are there circumstances under which you could envision *ex parte* communications being tolerated?

My philosophy regarding *ex parte* communications is the same as stated in the *South Carolina Appellate Court Rules*. Rule 501, Cannon 3(B)(7), SCACR, prohibits all *ex parte* communications with a judge except:

- (1) where circumstances require such communications for scheduling, administrative purposes or emergencies that do not deal with substantive matters or issues on the merits provided the judge reasonably believes that no party will gain a procedural or tactical advantage from the communication and the judge promptly notifies all parties of the substance of the communication and allows an opportunity to respond;
- (2) to obtain advise of a disinterested expert on the law applicable to the proceeding if the judge gives notice to the parties of the person consulted and the substance of the advise and affords the parties reasonable opportunity to respond;
- (3) to consult with court personnel whose function is to aid the judge in carrying out adjudicative responsibilities or with other judges;

- (4) with the consent of the parties to mediate or settle matters pending before the judge;
- (5) those communications expressly permitted by law, such as the issuance of temporary restraining orders under limited circumstances.

6. What is your philosophy on recusal, especially in situations in which lawyer-legislators, former associates, or law partners are to appear before you?

Rule 501, Cannon 3(E)(1), SCACR, requires a judge to disqualify himself or herself in which the judge's impartiality might reasonably be questioned. Certainly, a judge should recuse himself or herself in instances where the judge served as a lawyer in the matter in controversy and/or practiced law with the lawyer appearing before the judge during the time in which the lawyer was associated with the matter in controversy. At all times, the judge should avoid even the appearance of impropriety.

7. If you disclosed something that had the appearance of bias, but you believed it would not actually prejudice your impartiality, what deference would you give a party that requested your recusal? Would you grant such a motion?

After disclosing something that has the appearance of bias, a judge must recuse himself or herself if requested by a party or lawyer to the proceeding.

8. How would you handle the appearance of impropriety because of the financial or social involvement of your spouse or a close relative?

If the financial or social involvement did not affect my impartiality, I would advise the parties and lawyers, on the record, of the involvement that gives the appearance of impropriety. I would then allow them to consider, out of my presence, whether to waive my disqualification from presiding over the matter. If any of the parties or lawyers do not waive my disqualification, I would then recuse myself from the proceeding. If, on the other hand, all parties and lawyers waived my disqualification on the record, I would then continue to participate in the proceeding.

9. What standards have you set for yourself regarding the acceptance of gifts or social hospitality?

A judge shall not accept, and shall urge members of the judge's family residing in the judge's household, not to accept, a gift, bequest, favor or loan from anyone except for:

- (1) a gift incident to a public testimonial, books, tapes and other resource materials supplied by publishers on a complimentary basis for official use, or an invitation to the judge and the judge's spouse or guest to attend a bar-related function or an activity devoted to the improvement of the law, the legal system or the administration of justice;

- (2) a gift, award or benefit incident to the business, profession or other separate activity of a spouse or other family member residing in the judge's household provided the gift, award or benefit could not reasonably be perceived as intended to influence the judge;
- (3) ordinary social hospitality; and
- (4) a gift from a relative or friend, for a special occasion (i.e., wedding, birthday, anniversary) provided the gift is fairly commensurate with the occasion and relationship.
10. How would you handle a situation in which you became aware of misconduct of a lawyer or of a fellow judge?  
If I receive information that a judge or lawyer has engaged in misconduct, then Rule 501, Canon 3(D) states that I should take "appropriate action," which may include direct communication with the judge or lawyer who has committed the violation, other direct action if available, and reporting the violation to the appropriate authority. If I have knowledge that a judge has committed a violation of the Code of Judicial Standards that raises a substantial question as to the judge's fitness for office or, if I have knowledge that a lawyer has committed a violation of the Rules of Professional Conduct that raises a substantial question as to the lawyer's honesty, trustworthiness or fitness as a lawyer, then I must report the violations to the appropriate authority, agency or other body.
11. Are you affiliated with any political parties, boards or commissions that, if you were re-elected, would need to be re-evaluated?  
No.
12. Do you have any business activities that you would envision remaining involved with if reelected to the bench?  
No.
13. How do you handle the drafting of orders?  
Whenever appropriate, I draft my own orders. If I direct an attorney in the proceeding to prepare an order, I state on the record or in writing to all attorneys the contents desired in the order. Before presenting the order to me for signature, I require the attorney preparing the order to provide all other attorneys with a copy of the proposed order and give those attorneys opportunity to respond to the proposed order.
14. What methods do you use to ensure that you and your staff meet deadlines?  
I log tasks and deadlines on a program in my computer and check is daily. I also have my secretary prepare a monthly report of matters taken under advisement.
15. What is your philosophy on "judicial activism," and what effect should judges have in setting or promoting public policy?  
A judge may be "judicially active" to promote the efficiency and integrity of the judicial system. However, at all times, a judge must not



do anything that adversely affects the integrity of the judicial system. A judge should never be influenced by public policy and must, at all times, be impartial and ensure that all litigants receive equal treatment.

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

If elected, my primary undertaking to improve the legal system will be to continue working diligently and efficiently to bring disputes to trial quicker. I strongly favor scheduling orders that set deadlines for discovery, pretrial motions and dates upon which a case must be ready for trial. I am less inclined to grant continuances to cases that have been pending for long periods of time. To the extent that time permits, I work through bar associations and judicial conferences to improve the efficiency of the legal system.

17. Do you feel that the pressure of serving as a judge strains personal relationships (i.e. spouse, children, friends, or relatives)? How do you address this?

The pressure of serving as a judge has not strained my personal relationships and I do not feel that the pressure of serving as a judge in the future will strain personal relationships. I have a philosophy that one must work when it is time to work and devote time to one's family and friends when that time dictates. I have never had to "choose" between family, friends and my duties as a judge.

18. The following list contains five categories of offenders that would perhaps regularly appear in your court. Discuss your philosophy on sentencing for these classes of offenders.

a. Repeat offenders: These offenders should receive maximum sentences permitted by law, especially if the offender has repeated the same offense multiple times or engaged in more serious offenses than previously committed.

b. Juveniles (that have been waived to the circuit court): The primary consideration in these cases is the reason for the waiver of the juvenile to circuit court. If the family court waives the case to the circuit court because the juvenile committed a violent crime and the juvenile system cannot provide adequate protection to the public, then the sentence in the circuit court should be incarceration as permitted by law to protect the public. If, on the other hand, the juvenile commits a non-violent crime but, the family court waives jurisdiction to the circuit court because of the juvenile's age and the maximum sentence permitted under a juvenile system does not provide adequate time for rehabilitation, then the sentence may be for a longer period of probation to provide adequate time for rehabilitation.

c. White collar criminals: First time offenders of white collar crimes should be sentenced the same as first time offenders of non-violent

blue collar crimes. Repeat offenders of white collar crimes should be sentenced the same as repeat offenders of non-violent blue collar crimes.

d. Defendants with a socially and/or economically disadvantaged background: If the defendant commits a violent crime that endangers the public, then little to no consideration is given to the socially and/or economically disadvantaged background of the defendant. If, on the other hand, the defendant is a first time offender of a non-violent crime and is a prospect for rehabilitation, then the defendant's social and/or economic background may be a valid consideration in sentencing.

e. Elderly defendants or those with some infirmity: If the defendant commits a violent crime that endangers the public, then little to no consideration is given to the defendant's age or infirmity. If, on the other hand, the defendant is a first time offender of a non-violent crime and is a prospect for rehabilitation, then the defendant's age and/or infirmity may be a valid consideration in sentencing.

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

No.

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

No, unless I advised all parties and attorneys on the record of the financial interest, allowed the parties and attorneys to discuss the matter out of my presence and, the parties and attorneys waived my disqualification on the record and asked me to hear the case.

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

No.

22. Have you met the mandatory minimum hours requirement for continuing legal education courses?

Yes.

23. What do you feel is the appropriate demeanor for a judge?

At all times, a judge shall act in a manner that promotes public confidence in the integrity and impartiality of the judiciary. A judge shall require order and decorum in proceedings before the judge. And a judge shall be patient, dignified, courteous to litigants, jurors, witnesses, lawyers and others with whom the judge deals in an official capacity.

24. Do the rules that you expressed in your previous answer apply only while you are on the bench or in chambers, or do these rules apply seven days a week, twenty-four hours a day?

They apply seven days a week, twenty-four hours a day.

25. Do you feel that it is ever appropriate to be angry with a member of the public, especially with a criminal defendant? Is anger ever appropriate in dealing with attorneys or a pro se litigant?  
A judge should never show his or her anger. However, a judge must maintain decorum and order. Showing anger may give the appearance of bias on the judge's behalf.
26. How much money have you spent on your campaign? If it is over \$100, has that amount been reported to the House and Senate Ethics Committees?  
None.
27. While campaigning for this office, have you used judicial letterhead or the services of your staff for your campaign?  
No.
28. Have you sought or received the pledge of any legislator prior to this date?  
No.
29. Have you sought or been offered a conditional pledge of support by any legislator pending the outcome of your screening?  
No.
30. Have you asked any third parties to contact members of the General Assembly on your behalf before the final and formal screening report has been released? Are you aware of any friends or colleagues contacting members of the General Assembly on your behalf?  
No.
31. Have you contacted any members of the Judicial Merit Selection Commission?  
No.
32. Are you familiar with the 48-hour rule, which prohibits a candidate from seeking pledges for 48 hours after the draft report has been submitted?  
Yes.

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

s/Benjamin H. Culbertson

Sworn to before me this 19th day of September, 2008.

Notary Public for South Carolina

My commission expires:3/21/2010

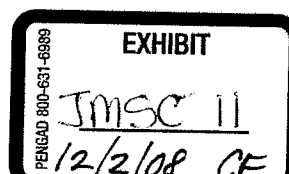
**JUDICIAL MERIT SELECTION COMMISSION  
PERSONAL DATA QUESTIONNAIRE**

Court, Position, and Seat # for which you are applying: Circuit Court, At-Large, Seat #2.

1. NAME: Mr. Rupert Markley Dennis, Jr.  
BUSINESS ADDRESS: Post Office Box 1800, Moncks Corner, SC 29461  
E-MAIL ADDRESS: mdennisj@sccourts.org  
BUSINESS NUMBER: (843) 719-4435
  
2. Date of Birth: 1947  
Place of Birth: Charleston, S.C.
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 on January 16, 1971, to Janis Sherrill Gailbreath. Never divorced. Three children.
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) USC 9/66 thru 6/70 Bachelor of Science in Business Administration;
  - (b) USC 9/70 thru 6/73 Juris Doctor.
8. List the states in which you have been admitted to practice law and the year of each admission. Also list any states in which you took the bar exam but were never admitted to the practice of law. If you took the bar exam more than once in any of the states listed, please indicate the number of times you took the exam in each state.

South Carolina – 1973.
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) During my college years, I was a member of Kappa Alpha Order, pledging in the fall of 1967;
  - (b) During my senior year, I was the corresponding secretary for the Fraternity;
  - (c) I also participated in the State Student Legislature during Spring of 1969.
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) Annual Civil Law Update	1/25/08;
(b) Annual Criminal Law Update	1/25/08;



- (c) 2007 Judicial Conf. 8/22/07;
- (d) Nuts & Bolts on Sexually 7/27/07;
- (e) Orientation School for Judges 7/11/07;
- (f) Judges Conference 5/16/07;
- (g) Annual Criminal & Civil Law 1/26/07;
- (h) 2006 Judicial Conf 8/23/06;
- (i) 2006 Orientation for New Judges 7/10/06;
- (j) Annual Criminal & Civil Law 1/27/06;
- (k) Annual Civil Law Update 1/27/06;
- (l) 2005 Judicial Conf. 8/25/05;
- (m) Orientation School for Judges 7/11/05;
- (n) Circuit Court Judges School 5/12/05;
- (o) Annual Criminal & Civil Law 1/21/05;
- (p) Judicial Conference 8/04;
- (q) Judges Conference 5/04;
- (r) Criminal & Civil Law Update 1/04.

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

- (a) For the last five (5) years, I have taught the Civil Law portion of the South Carolina New Judges School;
- (b) I also spoke on the "Inherent Powers of the Court";
- (c) In 2008, I spoke to the SC Bar Young Lawyers concerning "Observations from the Bench".

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.

All Courts in this State;  
The United States Court of Appeals;  
The United States District Courts.

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 law school in 1973 and admission to the Bar, in November 1973, I practiced law in Moncks Corner, South Carolina. My practice was of a general nature dealing primarily in litigation in family court, civil court, criminal court, probate court, and some administrative agencies, primarily Workers' Compensation. I represented the Berkeley County School District for seven years and was retained counsel for it. My representation resulted in my having to handle various legal matters, including issues involving school law and employment law. I handled several matters in the Court of

Appeals in this State and was associate counsel in a matter heard by the SC Supreme Court. During my practice in Moncks Corner, I also had occasions to handle several matters in the Federal Court, including an association in a case which resulted in an appeal to the Fourth Circuit Court of Appeals. In addition to litigation, I have been involved in real estate work, ranging from suits to remove clouds on title, to simple loan closings. My practice also involved occasions for minor estate planning as well as some corporate work.

15. What is your rating in Martindale-Hubbell? BV Rating in 1993.
22. Have you ever held judicial office? Describe the jurisdiction of each of the courts and note any limitations on the jurisdiction of each court.  
I was elected Circuit Court Judge, At Large, Seat #2, in February 1994 to fill the unexpired term of The Honorable William T. Howell, and have been serving continuously since that date.
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.  
In addition to those cases cited with my 2002 Application filed with the Commission, I would submit the following, to-wit:
- (a) State v. Sapp, 366 S.C. 283, 621 S.E. 2d 883 (2005).  
This is a Death Penalty Case tried by me in Berkeley County;
  - (b) Hospitality Management Associates, Inc. vs. Shell Oil Co., 356 S.C. 644, 591 S.E. 2d 611 (2004). This is an Appeal from an Order granting Summary Judgment, giving full faith and credit to Orders recognizing and affirming a National Class Action settlement;
  - (c) Jamison vs. Ford Motor Co., 373 S.C. 248, 644 S.E.2d 755 (S.C. App. 2007). This is an Appeal taken from a Product Liability case involving allegations of a safety defective restraint system in a Ford automobile;
  - (d) Plyler v. Burns, 373 S.C. 637, 647 S.E.2d 188 (2007). This case involves an Appeal taken from a Summary Judgment granting defendants Motion to Dismiss based on judicial immunity;
  - (e) Wilson vs. Style Crest Products, Inc., 367 S.C. 653, 627 S.E.2d 733 (2006). This case involves an Appeal from Order granting Motion dismissing claims brought against manufacturer for a soil anchor tie down system.
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? If so, give details, including dates. No.
25. List all employment you had while serving as a judge (whether full-time or part-time, contractual or at will, consulting or otherwise) other than elected judicial office. Specify your dates of employment, employer, major job responsibilities, and supervisor. None.

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? No.
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. No.
29. A complete, current financial net worth statement was provided to the commission.
30. Describe any financial arrangements or business relationships that you have, or have had in the past, that could constitute or result in a possible conflict of interest in the position you seek. Explain how you would resolve any potential conflict of interest. None.
31. Have you ever been arrested, charged, or held by federal, state, or other law enforcement authorities for violation or for suspicion of violation of any federal law or regulation, state law or regulation, or county or municipal law, regulation, or ordinance, or any other law, including another country's law. No.
32. Have you, to your knowledge, ever been under federal, state, or local investigation for possible violation of a criminal statute? No.
33. Has a tax lien or other collection procedure ever been instituted against you by federal, state, or local authorities? Have you ever defaulted on a student loan? Have you ever filed for bankruptcy? No.
34. Have you ever been sued, either personally or professionally?  
I have been sued twice, being named personally in lawsuits arising out of a business venture known as Palmetto Wellness & Fitness Center, Inc. One involved a suit filed by a disgruntled stockholder alleging fraud against me and the other stockholders of this corporation. This suit was settled with the purchase of the Plaintiff's stock and his interest in the real property used by the corporation.  
I was also named as a party-defendant in a suit against Palmetto Wellness & Fitness Center, Inc. when a former director of the fitness center sued for breach of contract and attempted to pierce a corporate veil. This suit was settled prior to trial.
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. None.
41. List the amount and recipient of all contributions made by you or on your behalf to members of the General Assembly since the announcement of your intent to seek election to a judgeship. None.
42. Have you directly or indirectly requested the pledge of any member of the General Assembly as to your election for the position for which you are being screened? Have you received the assurance of any public official or public employee that they will seek the pledge of any member of the General Assembly as to your election for the position for which you are being screened? No.
43. Have you requested a friend or colleague to contact members of the General Assembly on your behalf? Are you aware of any friends or colleagues contacting members of the General Assembly on your behalf? No.
44. Have you or has anyone acting on your behalf solicited or collected funds to aid in the promotion of your candidacy? 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) American Bar Association;
  - (b) South Carolina Bar Association;
  - (c) South Carolina Circuit Judges Association
    - (i) Circuit Judges Advisory Committee
    - (ii) Judicial Council of the State of South Carolina.
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) USC Gamecock Club;
  - (b) The Hibernian Society.
48. Provide any other information which 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. This information may include how your life experiences have affected or influenced the kind or type of judge you have been or plan to be. None.
49. References:
- (a) Mr. Thierry Longueville, Vice President  
Farmers & Merchants Bank of South Carolina  
Main Street  
Moncks Corner, SC 29461  
(843) 761-8888
  - (b) Mr. David Fashion, Agent in Charge  
Berkeley County Probation and Parole  
300-B California Avenue  
Moncks Corner, South Carolina 29461  
(843) 761-8395
  - (c) John C. West, Esquire  
Attorney at Law  
201 Carolina Avenue  
Moncks Corner, South Carolina  
(843) 761-5626
  - (d) The Honorable Henry Wayne DeWitt  
Sheriff, Berkeley County  
223 North Live Oak Drive  
Moncks Corner, South Carolina  
(843) 719-4414
  - (e) M. Dawes Cook, Jr., Esquire  
Attorney at Law  
PO Box H  
Charleston, South Carolina 29402-0197

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/R. MARKLEY DENNIS, JR.

Date: 09/15/08

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

Circuit Court  
(Incumbent)

Full Name: R. Markley Dennis, Jr.  
Business Address: Post Office Box 1800  
Moncks Corner, SC 29461  
Business Telephone: (843) 719-4435

1. Why do you want to serve another term as a Circuit Court Judge?  
Answer: After serving the State for almost fourteen years, I can offer both experience and desire in assisting our judiciary. I am extremely excited about the opportunity to continue the process of improving our system and believe I can be of assistance in that endeavor. All of which, I hope, would benefit the State, the Bench, and the Bar.
2. Do you plan to serve your full term if re-elected?  
Answer: I plan to serve the full term if elected.
3. Do you have any plans to return to private practice one day?  
Answer: I do not intend to return to private practice.
4. Have you met the Constitutional requirements for this position regarding age, residence, and years of practice?  
Answer: I have fully satisfied the Constitutional requirements for this position regarding age, residence, and years of practice.
5. What is your philosophy regarding *ex parte* communications? Are there circumstances under which you could envision *ex parte* communications being tolerated?  
Answer: I have always sought to avoid *ex parte* communications. Many times persons unfamiliar with that prohibition and unfamiliar with the court systems, do make approaches. I typically advise them of the impropriety of such communication. Also, whenever it occurs, I disclose the attempted communication to all the parties to the litigation. I do engage in *ex parte* communications permitted by the Canons of Ethics, the Rules of Practice and the Laws of the State of South Carolina.
6. What is your philosophy on recusal, especially in situations in which lawyer-legislators, former associates, or law partners are to appear before you?  
Answer: My philosophy on recusal is consistent with and specifically set forth in Canon 3(E). In those situations, I disclose the potential problems and ask the parties to consider out of my presence whether they wish me to recuse myself. If requested, recusal is always the correct approach. There are occasions, however, where I may decline

to recuse myself when it appears that the party is simply trying to gain an advantage or possibly further delay which would constitute a prejudice to the other side. In those situations, nothing in the Canons would prevent me from hearing the matter.

7. If you disclosed something that had the appearance of bias, but you believed it would not actually prejudice your impartiality, what deference would you give a party that requested your recusal? Would you grant such a motion?

Answer: As stated, I would, in those situations, elect to recuse myself to avoid the appearance of an impropriety.

8. How would you handle the appearance of impropriety because of the financial or social involvement of your spouse or a close relative?

Answer: If my spouse or close relative were involved financially or socially in a matter before me, I would probably recuse myself without giving the parties an opportunity to waive a disqualification. I believe the appearance of impropriety in that situation is so great it would be proper and would demean the integrity of the judiciary.

9. What standards have you set for yourself regarding the acceptance of gifts or social hospitality?

Answer: I do not accept any food, meals, gifts, except those which are ordinary social hospitality. On occasion, I attend Trial Lawyers Conventions, which is, of course, reported on my financial disclosure each year and is permitted under the Canon Code of Judicial Conduct 4(B)(5). I do receive and have accepted gifts from relatives and friends on special occasions, such as Christmas and birthdays. Such is permitted by Canon 4(5)(D). Generally I try at all times to comply in every respect with Canon 4 of the Judicial Canon of Ethics. It provides fairly explicit guidelines.

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

Answer: If there is a substantial likelihood that the judge or the attorney has committed a violation of the Code of Judicial Conduct or the Rules of Professional Conduct governing lawyers, I would confront the lawyer and if required by the Rules, report the conduct to the appropriate authority. If I consider it to be misconduct but not a substantial likelihood that it constitutes a violation of one of the Codes, I probably would discuss the matter in private with the lawyer and/or the judge.

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

Answer: I am a member of no political parties, boards, or commissions.

12. Do you have any business activities that you would envision remaining involved with if reelected to the bench?

Answer: No

13. How do you handle the drafting of orders?

Answer: Generally I require the attorneys to prepare the appropriate Orders. I have, on occasion, drafted my own Order. In complex cases I will typically request that the attorney forward with the Order a disk to facilitate editing when needed.

14. What methods do you use to ensure that you and your staff meet deadlines?

Answer: The methods utilized are tickler systems which I have in my office as well as the various reporting requirements that have to be made to Court Administration. In the last fourteen years, I do not believe we have experienced any problems with deadlines. I don't anticipate any in the future.

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

Answer: "Judicial activism" is a term that certainly may in some circumstances have merit if tempered by legal principal, *stare decisis*. I also strongly believe in preserving three separate but equal branches of government. A judge should never seek to legislate. A judge should interpret and apply the statutory laws of the state as adopted by its legislature. Public policy should be considered by the judge only when it is one of the factors necessary for a decision in a given case. In those situations, I would consider it but not give more weight to a public policy consideration than any other factor.

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

Answer: Upon request, I have spoken to various service clubs concerning the judiciary and the legal system in administration of justice. I will continue to speak on those occasions. Also I attempt to use the qualification process for juries as an opportunity to discuss the merits of our system of dispute resolution and encourage the citizens to be involved in that process as jurors. I consider my job as a circuit court judge to be an opportunity every day for me to be an ambassador for the State and its judicial system.

17. Do you feel that the pressure of serving as a judge strains personal relationships (i.e. spouse, children, friends, or relatives)? How do you address this?

Answer: The stresses of the job are certainly obvious from time to time. It has been my practice to discuss the source of stress, but not discuss the merits of the case or decisions to be made by me until the case has been resolved and I no longer have anything to do with it. From time to time, I may, in my close family setting discuss the cases and give reasons for decisions when asked. I do the same for jurors if

- they ask from time to time after the case has been of course resolved and ended. At no time, however, do I permit family or friends to interfere with nor suggest or give the appearance that they are interfering with or involved with my decision making process.
18. The following list contains five categories of offenders that would perhaps regularly appear in your court. Discuss your philosophy on sentencing for these classes of offenders.
- a. Repeat offenders:  
Answer: It depends on the offenses and the individual case. It would be one of the factors that I would consider in imposing a sentence. The severity of the sentence would depend upon a number of factors, the nature of the prior offenses as stated and the time lapse between them, but it may have an influence on whether or not a probationary sentence is considered.
- b. Juveniles (that have been waived to the circuit court):  
Answer: I would consider those cases the same as any other case.
- c. White collar criminals:  
Answer: I believe that all cases should be individually considered. A factor that I do consider, however, is whether or not a person knew or should have known that the conduct in which they were engaged was wrong. Also, I believe there is a higher degree of accountability to those upon whom society has bestowed a trust or confidence. That would be a factor I would likewise consider in imposing a sentence.
- d. Defendants with a socially and/or economically disadvantaged background:  
Answer: A person's background will always be considered whether they are socially and economically advantaged or disadvantaged. In imposing a sentence one should consider all the factors having a direct bearing or potential influence on one's conduct.
- e. Elderly defendants or those with some infirmity:  
Answer: A person's infirmity has some bearing on my sentencing in the likelihood of recidivism in some situations. However, a person's physical infirmity would not necessarily prevent me from incarcerating that individual if justified.
19. Are you involved in any active investments from which you derive additional income that might impair your appearance of impartiality?  
Answer: No
20. Would you hear a case where you or a member of your family held a *de minimis* financial interest in a party involved?  
Answer: Canon 3(E)(1)(B) of the Code of Judicial Conduct requires that I disqualify myself where there is more than a *de minimis* interest which is likely to be affected. Thus, the degree or effect and the degree of interest would have a significant bearing on whether or not I would recuse myself outright. In every instance, if it was not

substantial enough or the financial interest was not significant enough, then I would follow the procedure provided in Canon 3(F) and allow the parties to decide whether or not they are willing to waive the disqualification and allow me to hear it.

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

Answer: Not to my knowledge.

22. Have you met the mandatory minimum hours requirement for continuing legal education courses?

Answer: I believe all filings will indicate that I have fully complied with more than the minimum hour requirements for Continuing Legal Education courses.

23. What do you feel is the appropriate demeanor for a judge?

Answer: A demeanor that reflects an interest in the subject matter at hand and reflects no personal bias or prejudice. I feel that the judges demeanor should be such that the litigant and/or the litigants attorney have a full and complete opportunity to argue and/or state their respective positions. A judge's demeanor should be such that would reflect an attitude of patience and tolerance on the various positions being argued.

24. Do the rules that you expressed in your previous answer apply only while you are on the bench or in chambers, or do these rules apply seven days a week, twenty-four hours a day?

Answer: I hope that my answers apply to my every day appearance, however, with family members and my children, I am sure there are occasions when they do not consider my demeanor to be that as described in No. 23, but I am human.

25. Do you feel that it is ever appropriate to be angry with a member of the public, especially with a criminal defendant? Is anger ever appropriate in dealing with attorneys or a pro se litigant?

Answer: There are occasions when it may be necessary to be firm with members of the public. I do not believe, however, anger is ever appropriate in a courtroom. If a judge is angry, then I believe he loses the ability to be objective and perform his or her duties effectively.

26. How much money have you spent on your campaign? If it is over \$100, has that amount been reported to the House and Senate Ethics Committees?

Answer: I have spent no funds on my campaign at this point.

27. While campaigning for this office, have you used judicial letterhead or the services of your staff for your campaign?

Answer: No

28. Have you sought or received the pledge of any legislator prior to this date?

Answer: I have not sought nor have I received any pledge from any legislator prior to this date.

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

Answer: I have not sought nor have I been offered any conditional pledge of support by any legislator pending the outcome of the screening.

30. Have you asked any third parties to contact members of the General Assembly on your behalf before the final and formal screening report has been released? Are you aware of any friends or colleagues contacting members of the General Assembly on your behalf?

Answer: I have asked no one to contact any legislators on my behalf at this point and I do not intend to until the screening report is released and I am permitted by law to take such action.

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

Answer: I have contacted no one on the Judicial Merit Selection Commission.

32. Are you familiar with the 48-hour rule, which prohibits a candidate from seeking pledges for 48 hours after the draft report has been submitted?

Answer: I am familiar with the 48-hour rule and intend to comply with same.

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

s/R. Markley Dennis, Jr.

Sworn to before me this 15th day of September, 2008.

Notary Public for South Carolina

My commission expires: 6/21/2010

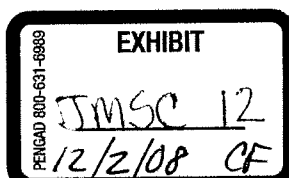
**JUDICIAL MERIT SELECTION COMMISSION  
PERSONAL DATA QUESTIONNAIRE**

Court, Position, and Seat # for which you are applying: Circuit Court at Large,  
Seat 4

1. NAME: Mr. Edward Walter "Ned" Miller  
BUSINESS ADDRESS: 305 East North Street, Suite 219  
Greenville, South Carolina 29601  
E-MAIL ADDRESS: emillerj@scccourts.org  
BUSINESS NUMBER: (864) 467-8559
  
2. Date of Birth: 1952  
Place of Birth: Chicago, Illinois
  
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 on December 30, 1978, to Martha Walker Albrecht Miller. Never divorced. Two children.
  
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) Johns Hopkins University  
1970 - 1974; Bachelor of Arts;
  - (b) University of S.C. school of Law  
1975 - 1978; Juris Doctor.
  
8. List the states in which you have been admitted to practice law and the year of each admission. Also list any states in which you took the bar exam but were never admitted to the practice of law. If you took the bar exam more than once in any of the states listed, please indicate the number of times you took the exam in each state.  
South Carolina - November 8, 1978.
  
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) Johns Hopkins University - Freshman Football; Lacrosse - two years; Phi Gamma Delta Fraternity;
  - (b) U.S.C. School of Law - Co-founder, President, Captain of the U.S.C. Lacrosse Club.
  
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.

Conference/CLE Name

Date(s)





- |     |                                   |           |
|-----|-----------------------------------|-----------|
| (a) | Orientation School for New Judges | 7/8/02;   |
| (b) | SC Trial Lawyers Convention       | 8/1/02;   |
| (c) | Judicial Conference               | 8/22/02;  |
| (d) | Circuit Judge's Conference        | 5/7/03;   |
| (e) | Judicial Conference               | 8/21/03;  |
| (f) | Criminal Law Update               | 1/23/04;  |
| (g) | Civil Law Update                  | 1/23/04;  |
| (h) | Circuit Judge's Conference        | 5/5/04;   |
| (i) | Judicial Conference               | 8/19/04;  |
| (j) | Judicial Oath of Office           | 8/19/04;  |
| (k) | Seminar for Chief Judges          | 12/10/04; |
| (l) | Criminal & Civil Law Update       | 1/21/05;  |
| (m) | Circuit Judge's Conference        | 5/11/05;  |
| (n) | Judicial Conference               | 8/24/05;  |
| (o) | Criminal & Civil Law Update       | 1/27/06;  |
| (p) | Circuit Judge's Conference        | 5/10/06;  |
| (q) | Judicial Conference               | 8/23/06;  |
| (r) | Criminal & Civil Law Update       | 1/26/07;  |
| (s) | Circuit Judge's Conference        | 5/07;     |
| (t) | Judicial Conference               | 8/22/07.  |
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) I have participated on an Ethics Course panel at the 2005 Public Defender Conference;
  - (b) I have participated on a Panel Discussion concerning the Business Court Pilot Program at the SC Defense Trial Lawyers Conference in July of 2008;
  - (c) I am scheduled to participate in September of 2008 at an Ethics Course panel at the 2008 Public defender Conference.
12. List all published books and articles you have written and give citations and the dates of publication for each. N/A.
13. List all courts in which you have been admitted to practice and list the dates of your admission. Give the same information for administrative bodies that require a special admission to practice.
- (a) South Carolina Supreme Court, November 8, 1978;
  - (b) United States District Court for South Carolina September 3, 1980;
  - (c) United States Court of Appeals, Fourth Circuit May 1, 1981.
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) November, 1978 - April, 1980 Southern Bank & Trust Company  
Federal Regulations Compliance Officer;

- (b) April, 1980 - June, 1981 Assistant Public Defender for Greenville County;
  - (c) June 1981 - June, 1982, Sole Practitioner - General Practice;
  - (d) June, 1982 - July, 2000, Miller & Paschal, General Practice Concentration in Civil & Criminal Litigation;
  - (e) July 2000 - August 2002, Sole Practitioner - General Practice
15. What is your rating in Martindale-Hubbell? a/v.
22. Have you ever held judicial office? Describe the jurisdiction of each of the courts and note any limitations on the jurisdiction of each court.  
Circuit Court at Large, Seat No. 4 since August 29, 2002.
23. If the answer to question 22 is yes, describe or list five of your most significant orders or opinions and give the citations if they were reported. Also list citations to any appellate review of these orders or opinions.
- (a) State v. Evins, 373 S.C. 404, 645 S.E. 2d 904 (2007). This was a death penalty case in Spartanburg County of significant local notoriety. The Defendant was convicted by a jury of murder, criminal sexual conduct in the first degree, and grand larceny. The Defendant was sentenced to death. The case involved issues related to pretrial publicity, juror disqualification, and judicial discretion with respect to admission of evidence;
  - (b) Watson, et. al. v. Ford Motor Company, et. al. This was a significant products liability case involving severe injuries to the plaintiffs. The case was designated as complex litigation and involved numerous complicated evidentiary issues. The trial lasted for three weeks and included testimony from numerous experts. The Plaintiffs obtained a large verdict against one of the Defendants. It was broadcast in its' entirety on a live webcast by Court TV. It is currently on appeal;
  - (c) Mitchell, et. al. v. City of Greenville. This was a governmental takings case of significant local import. The city government condemned three downtown residences which were located in the center of a major redevelopment in the heart of Greenville's West End, immediately adjacent to the Reedy River. The case aroused intense interest pitting personal property rights advocates against community benefit advocates. The plaintiffs obtained a large verdict. The case was settled after the appeal was filed;
  - (d) Koutsogiannis v. BB&T, 365 S.C. 145, 616 S.E.2d 425 (2005). This case involved counterclaims against a bank filed in response to a collection action initiated by the bank against the plaintiff. The trial on the counterclaims was conducted after the case was remanded by the South Carolina Court of Appeals for failure of the original trial court to allow the plaintiff to argue the merits of the counterclaims. Plaintiff was awarded a verdict on a gross negligence claim, which the Supreme Court affirmed. Issues involved in the case included jury instructions and attorney-client/agent-principal relationships and liability there under;

- (e) State v. Inman. This is a capital case involving the murder and sexual assault of a Clemson University student by a previously convicted sex offender who had been released from a foreign state on parole. This case was reported by the national media and was followed intensely by the local area media. The Defendant tendered a guilty plea to all charges: murder, criminal sexual conduct in the first degree, armed robbery and kidnapping. Over the Defendant's constitutional objections, the sentencing phase is being conducted without a jury. The sentencing proceeding has been suspended, after four days of testimony, because a defense witness alleges that she has been intimidated by comments made by the Solicitor to the Court, in her voir dire, relating to criminal sanctions for social workers, unlicensed in South Carolina, testifying as an expert witness. This case will resume when the defense has had an opportunity to either rehabilitate this witness or find a replacement.
24. Have you ever held public office other than judicial office? No.
25. List all employment you had while serving as a judge (whether full-time or part-time, contractual or at will, consulting or otherwise) other than elected judicial office. Specify your dates of employment, employer, major job responsibilities, and supervisor. None.
26. Have you ever been an unsuccessful candidate for elective, judicial, or other public office?
- (a) Circuit Court, Thirteenth Circuit: February, 2000;
- (b) Circuit Court at Large, Seat No. 3: May, 2000.
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? No.
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. No.
29. A complete, current financial net worth statement was provided to the Commission.
30. Describe any financial arrangements or business relationships that 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.
- The only such business relationship stems from my law practice. I have disclosed my prior partnership to counsel when my former partner appears before me. On one occasion, during my first year on the bench, an attorney requested that I recuse myself from a case in which my former partner was opposing counsel and, out of an abundance of caution, I complied with that request. That was the only occasion, despite disclosure of the relationship, that recusal was requested.
31. Have you ever been arrested, charged, or held by federal, state, or other law enforcement authorities for violation or for suspicion of violation of any federal

- law or regulation, state law or regulation, or county or municipal law, regulation, or ordinance, or any other law, including another country's law? No.
32. Have you, to your knowledge, ever been under federal, state, or local investigation for possible violation of a criminal statute? No.
  33. Has a tax lien or other collection procedure ever been instituted against you by federal, state, or local authorities? Have you ever defaulted on a student loan? Have you ever filed for bankruptcy? No.
  34. Have you ever been sued, either personally or professionally? No.
  36. Are you now or have you ever been employed as a "lobbyist," as defined by S.C. Code § 2-17-10(13), or have you acted in the capacity of a "lobbyist's principal," as defined by S.C. Code § 2-17-10(14)? No.
  37. Since filing with the Commission your letter of intent to run for judicial office, have you accepted lodging, transportation, entertainment, food, meals, beverages, money, or any other thing of value as defined by S.C. Code § 2-17-10(1) from a lobbyist or lobbyist's principal? No.
  38. S.C. Code § 8-13-700 provides, in part, that "[n]o public official, public member, or public employee may knowingly use his official office, membership, or employment to obtain an economic interest for himself, a member of his immediate family, an individual with whom he is associated, or a business with which he is associated." Please detail any knowledge you have of any formal charges or informal allegations against you or any other candidate for violations of these provisions. I know of 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. I know of 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. None.
  41. List the amount and recipient of all contributions made by you or on your behalf to members of the General Assembly since the announcement of your intent to seek election to a judgeship. None.
  42. Have you directly or indirectly requested the pledge of any member of the General Assembly as to your election for the position for which you are being screened? Have you received the assurance of any public official or public employee that they will seek the pledge of any member of the General Assembly as to your election for the position for which you are being screened? No.
  43. Have you requested a friend or colleague to contact members of the General Assembly on your behalf? Are you aware of any friends or colleagues contacting members of the General Assembly on your behalf? No.

44. Have you or has anyone acting on your behalf solicited or collected funds to aid in the promotion of your candidacy? No.
45. Have you or has anyone acting on your behalf contacted members of the Judicial Merit Selection Commission about your candidacy or intention to become a candidate? No.
46. List all bar associations and professional organizations of which you are a member and give the titles and dates of any offices you have held in such groups.
- (a) South Carolina Bar Association;
  - (b) Greenville County Bar Association (1993 Board of Directors);
  - (c) South Carolina Association of Criminal Defense Lawyers;
  - (d) National Association of Criminal Defense Lawyers;
  - (e) South Carolina Trial Lawyers;
  - (f) Greenville County Criminal Defense 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.
48. Provide any other information which 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. This information may include how your life experiences have affected or influenced the kind or type of judge you have been or plan to be.
- My family and I are active communicants at Christ Church Episcopal in Greenville. Formerly, I was active as a youth athletics coach at the Greenville YMCA. I was also a coach, board member and president of a youth soccer organization in Greenville.
49. References:
- (a) Robert P. Richardson, IV  
P.O. Box 2628  
Spartanburg, S.C. 29304  
(800) 934-0340;
  - (b) George Dean Johnson, Jr.  
P.O. Box 3524  
Spartanburg, S.C. 29304  
(864) 573-1600;
  - (c) Kenneth M. Young  
4521 Sharon Rd.  
Suite 225  
Charlotte, N.C. 28211  
(704) 315-6842
  - (d) James B. Orders, III  
Park Place Corporation  
P.O. Box 8127

Greenville, S.C. 29604  
(864) 422-8118;  
(e) Frank Wilson  
Wachovia  
15 S. Main Street  
Greenville, S.C. 29601  
(864) 255-8233

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/Edward Walter "Ned" Miller

Date: 09/18/08

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

Circuit Court  
(Incumbent)

Full Name: Edward Walter (Ned) Miller  
Business Address: 305 E. North St., Suite 219  
Greenville, S.C. 29601  
Business Telephone: (864) 467-8559

1. Why do you want to serve another term as a Circuit Court Judge?  
I have been honored to serve the citizens of South Carolina for the past six years. This amount of time has allowed me to mature into this position and to become comfortable with the challenges of the job that arise on a regular basis. I realize I still have much to learn and room to grow and I look forward to improving my skills and abilities to become a better Judge. I am honored to have been appointed by the South Carolina Supreme Court to serve as one of three Circuit Judges in the Business Court Pilot program and also to serve on the Commission on Judicial Conduct. This job has been the best job of my legal career.
2. Do you plan to serve your full term if re-elected?  
Yes.
3. Do you have any plans to return to private practice one day?  
No.
4. Have you met the Constitutional requirements for this position regarding age, residence, and years of practice?  
Yes.
5. What is your philosophy regarding *ex parte* communications? Are there circumstances under which you could envision *ex parte* communications being tolerated?  
To protect the impartiality of the Court and fairness to participants in proceedings before the Court, *ex parte* communications should be avoided. In limited circumstances, including scheduling, administrative matters and emergencies, *ex parte* communications are acceptable provided that they do not prejudice a participant and the communication is promptly reported to all other participants. Additionally, the law permits *ex parte* communications in limited circumstances including temporary restraining orders, payment of fees and expenses in capital cases, and writs of supersedeas in cases where irreparable harm might otherwise result.

6. What is your philosophy on recusal, especially in situations in which lawyer-legislators, former associates, or law partners are to appear before you?

A judge is charged with the duty of diligently handling those matters assigned to the judge, fairly and without bias or prejudice. A judge may be disqualified from service in a matter in which his impartiality may be questioned and should recuse himself where there is actual partiality of more than a *de minimis* nature. If a reasonable question concerning a judge's impartiality is raised, the judge may continue in the matter if, after disclosure on the record of the circumstances which raise the question, all parties agree to allow the judge to proceed. The rule of necessity requires a judge to proceed in certain instances even though a reasonable question of impartiality may be raised. Such instances would include the appearance of lawyer-legislators before a judge, as all judges suffer the same question of impartiality with respect to lawyer-legislators.

7. If you disclosed something that had the appearance of bias, but you believed it would not actually prejudice your impartiality, what deference would you give a party that requested your recusal? Would you grant such a motion?

After full disclosure of something that might give the appearance of bias, and the reasons that it would not actually prejudice the judge's impartiality, the complaining party should be given a full opportunity to express their concerns with respect to a motion for recusal. The judge must then weigh the reasonableness of the complaining parties' concerns with the judge's duty of diligent and efficient handling of judicial matters. The decision to grant the motion for recusal should be based on a balancing of those factors.

8. How would you handle the appearance of impropriety because of the financial or social involvement of your spouse or a close relative?

The degree of involvement of the spouse or relative in the entity or matter under scrutiny is a controlling factor in making the decision of disqualification. If the spouse or relative has more than a *de minimis* interest in the entity or matter, than recusal is appropriate. Additionally, if the spouse or relative is a lawyer or witness in the matter before the Court, or is an officer, director or trustee of an appearing entity, recusal is appropriate.

9. What standards have you set for yourself regarding the acceptance of gifts or social hospitality?

It is appropriate for a judge to receive ordinary social hospitality and gifts for special occasions, such as birthdays or Christmas. However, a judge must always avoid the appearance of impropriety, or conduct that might tend to bring a judge's impartiality into question. Gifts of



an excessive nature from persons not related to the judge should not be accepted.

10. How would you handle a situation in which you became aware of misconduct of a lawyer or of a fellow judge?  
A judge who becomes aware of actual, substantial misconduct on the part of a lawyer or fellow judge is required to report the misconduct to the appropriate authority.
11. Are you affiliated with any political parties, boards or commissions that, if you were re-elected, would need to be re-evaluated?  
No
12. Do you have any business activities that you would envision remaining involved with if reelected to the bench?  
No
13. How do you handle the drafting of orders?  
I prefer drafting orders myself, however, the volume of work prevents me from drafting all of my own orders. I generally assign the drafting of orders to the prevailing party by providing instructions to the drafter. I require that the drafter share the proposed order with opposing counsel and allow objections to be interposed; I resolve any remaining conflicts prior to finalizing the order.
14. What methods do you use to ensure that you and your staff meet deadlines?  
I employ a multiple calendar system in my office.
15. What is your philosophy on "judicial activism," and what effect should judges have in setting or promoting public policy?  
The legislature is the appropriate body to make laws which affect the citizenry. Judges should concern themselves with maintaining an independent and honorable judiciary, to ensure high standards of conduct and to protect the integrity of the Court system.
16. Canon 4 allows a judge to engage in activities to improve the law, legal system, and administration of justice. What activities do you plan to undertake to further this improvement of the legal system?  
I have participated with moot court competitions, local teen alcohol symposiums, and law student internships. I will continue to participate in activities that promote the judicial system and the administration of justice.
17. Do you feel that the pressure of serving as a judge strains personal relationships (i.e. spouse, children, friends, or relatives)? How do you address this?  
I am fortunate to have very strong relationships with my family and my friends. I have not found the pressure of serving as a judge to have interfered with these relationships.

18. The following list contains five categories of offenders that would perhaps regularly appear in your court. Discuss your philosophy on sentencing for these classes of offenders.

a. Repeat offenders:

The penal code, in many instances, addresses this issue through statutory enhancement for repeat offenders. Such cases which are not specifically addressed by the code require an examination of the offenders on a case by case basis. The nature of the prior offenses, the length of time between convictions, the type of offense charged and the personal characteristics of the offender must all be considered in fashioning an appropriate sentence.

b. Juveniles (that have been waived to the circuit court):

The fact that a juvenile has been waived to the Circuit Court indicates that the nature of the offense must be serious. Each case must be examined on its' merits, taking into consideration the personal characteristics of the offender, the nature of the crime, the impact on the victims, and the likelihood of rehabilitation for the juvenile.

c. White collar criminals:

White collar crime often has a serious impact on victims, and the offender must be punished according to the level of the offense. Making victims whole through restitution is a desirable part of the sentence. Each offenders' background, culpability, remorse, and acceptance of responsibility are factors to consider in sentencing.

d. Defendants with a socially and/or economically disadvantaged background:

Regardless of the nature or level of an offense, an offender's background should receive serious attention in sentencing. A person's ability to appreciate the significance of their criminal behavior and their capacity to conform their conduct to acceptable standards is one of the factors to be considered in sentencing.

e. Elderly defendants or those with some infirmity:

Defendants with significant infirmities and elderly persons present challenges to the sentencing judge. A sentence must be appropriate to the illegal conduct but also be sensitive to the physical impact on the offender and the ability of the criminal justice system to handle these unusual cases.

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

No

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

After full disclosure of a financial interest to the parties and a determination that the interest is in fact *de minimis* and would not affect his impartiality, it is appropriate to proceed.

21. Do you belong to any organizations that discriminate based on race, religion, or gender?  
No
22. Have you met the mandatory minimum hours requirement for continuing legal education courses?  
Yes
23. What do you feel is the appropriate demeanor for a judge?  
A judge should patient, courteous and respectful to everyone who appears before him. He should be efficient and diligent in disposing of matters before him. He should require the Court to be handled with dignity and integrity and to be firm in requiring appropriate conduct from all participants in the Court. He should maintain professional competence in his legal abilities and avoid the appearance of prejudice in all matters.
24. Do the rules that you expressed in your previous answer apply only while you are on the bench or in chambers, or do these rules apply seven days a week, twenty-four hours a day?  
At all times
25. Do you feel that it is ever appropriate to be angry with a member of the public, especially with a criminal defendant? Is anger ever appropriate in dealing with attorneys or a pro se litigant?  
Anger is not an appropriate emotion in the courtroom. A judge must maintain control of proceedings before him which may require him to be stern and demanding. Anger represents a loss of control and could lead to a perception of prejudice and partiality.
26. How much money have you spent on your campaign? If it is over \$100, has that amount been reported to the House and Senate Ethics Committees?  
None
27. While campaigning for this office, have you used judicial letterhead or the services of your staff for your campaign?  
No
28. Have you sought or received the pledge of any legislator prior to this date?  
No
29. Have you sought or been offered a conditional pledge of support by any legislator pending the outcome of your screening?  
No
30. Have you asked any third parties to contact members of the General Assembly on your behalf before the final and formal screening report has been released? Are you aware of any friends or colleagues contacting members of the General Assembly on your behalf?  
No

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

No

32. Are you familiar with the 48-hour rule, which prohibits a candidate from seeking pledges for 48 hours after the draft report has been submitted?

Yes

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

s/Edward Walter Miller

Sworn to before me this 18<sup>th</sup> day of September, 2008.

Notary Public for South Carolina

My commission expires: 6/26/2011