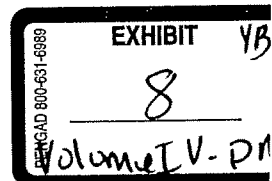


JUDICIAL MERIT SELECTION COMMISSION
Sworn Statement to be included in Transcript of Public Hearings

Family Court
(New Candidate)

Full Name: David Jamison Rutledge
Business Address: 304 Pettigru Street
Greenville, SC 29601
Business Telephone: (864) 467-0999

1. Why do you want to serve as a Family Court Judge?
I have a strong desire to serve my fellow citizens, and feel that this is an area in which I am truly qualified to do so. I have practiced almost exclusively in the area of Family Law for the past fourteen years, and have extensive experience in Family Court, where I appear virtually on a daily basis. I believe that my temperament, my intellect, and my experience are well suited to the tasks that I would be called upon to perform as a judge. It is a venue where I could render truly valuable service.
2. Do you plan to serve your full term if elected?
Yes.
3. Do you have any plans to return to private practice one day?
No.
4. Have you met the statutory requirements for this position regarding age, residence, and years of practice?
Yes. As to residence, I am living in the home I where I grew up in Greenville County. Both my wife and I have registered to vote in Greenville County and have changed our residence on our driver's licenses. I am in the process of selling my house in Spartanburg with the intent of purchasing an equivalent residence in Greenville.
5. What is your philosophy regarding *ex parte* communications? Are there circumstances under which you could envision *ex parte* communications being tolerated?
I do not believe that *ex parte* communications are appropriate as they undermine the adversarial system and the reputation of the Court for impartiality. I cannot envision any circumstances under which I would initiate, permit or consider *ex parte* communications except as noted below.
I do believe *ex parte* communications are permissible in instances of scheduling in the event of administrative matters or emergencies which do not deal with substantive matters in cases being considered or issues pertaining to the merits of a specific case. I shall make sure that no party obtains an advantage in initiating such communication,



and I shall as a matter of course ensure that all parties are notified of the substance of all such communications and that they are afforded an appropriate opportunity to respond.

Additionally, I believe it to be appropriate that a judge may consult with Court personnel and with other judges. A judge may also, with the permission of the other parties, confer separately with the parties for the purposes of mediation or of settlement.

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

I shall recuse myself in all matters where there might be any legitimate question regarding my impartiality. I am not aware of any bias that I entertain at this time toward any member of the bar, but if that issue should ever arise or if I have represented a party scheduled to appear before me I will recuse myself as a matter of course. As a solo practitioner, I have not been associated with other lawyers as partners or associates, and so I should have no need to recuse myself on that basis. I shall treat the state legislators with the same impartiality and courtesy as I would anyone else who might appear before me.

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

I would grant the motion.

Even though I might believe myself to be completely free of bias, I would recuse myself rather than cause anyone to appear before me who might legitimately feel that I would not be completely impartial in hearing his or her case. It is critical not only that the court function in a completely fair and impartial manner, but also that it be clearly perceived as doing so.

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

First and foremost, it has been my consistent policy throughout my years of legal practice always, in ethical matters, to err on the side of caution. Should there be any question of impropriety regarding the involvement of any member of my family, I would not hear the matter, nor would I be involved in any way regarding its adjudication. Further, I would expect that my wife would similarly distance herself from any involvement in a financial or social matter that might come before the court, and would not become socially involved with a litigant. Were a potential litigant already to be a friend, my wife and I would not engage in any discussion with him or her that touched upon his or her case in any manner. Both my wife and I have been involved in the

court system for a number of years, and we both have a very clear understanding of the ethical issues involved.

As to other relatives and close friends, I would distance myself from them as much as possible during the course of any litigation in which they might be involved, making clear to them my reasons for doing so and the fact that I could not engage with them in the discussion of any legal issues in an open case. I would of course recuse myself from hearing any matters regarding anyone with whom I maintain a personal relationship, and would make a full disclosure of any relationship I might have with a litigant.

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

I value my relationships with my friends and with members of my church, and expect to maintain those relationships. In the normal course of this social interaction, I visit the homes of friends and family members for dinner and other small social gatherings and entertain these people in my home. I would not accept any gifts except in the normal course of such social exchanges such as birthdays or other life events, and would certainly never do so in the context of my public responsibilities. I may accept gifts for public testimonials.

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

It is the ethical duty of everyone involved in the legal profession to make sure that it maintains the highest possible standards of conduct. Accordingly, should I become aware of misconduct on the part of a fellow judge that constitutes a violation of the Code of Judicial Conduct such that it would raise a substantial question as to the fitness of that individual to serve in office, I would report the misconduct to the appropriate authorities. I would consider it a duty as well to report misconduct on the part of an attorney that would raise a question as to his or her honesty, trustworthiness, or fitness.

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

No.

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

No.

13. Since family court judges do not have law clerks, how would you handle the drafting of orders?

I shall in most matters require one of the lawyers to prepare the order giving him or her ten days in which to do so. Docketing and tracking the production of such orders will be one of the duties of my secretary, who will notify the attorneys by means of facsimile if the

order has not been received within two weeks. If this still does not produce a result, I personally will call the attorney in question. I will thoroughly review the order after I receive it, comparing it with my notes and verifying its accuracy before I sign it.

In highly contested and litigated cases, I may prepare my own orders. I contemplate beginning this process by asking the lawyers to submit proposed orders, which I will then review before incorporating such portions of them as agree with my findings into the final order.

14. If elected, what method would you use to ensure that you and your staff meet deadlines?

My staff will be required to use a tickler system and a computer docket system to make sure that deadlines are met. I shall review compliance on a regularly scheduled periodic basis to ensure that we are on track.

15. If elected, what specific actions or steps would you take to ensure that the guidelines of the Guardian Ad Litem statutes are followed during the pendency of a case?

I believe that it is the duty of the judge to decide the matters before him or her. The Guardian ad litem is responsible for investigating the case and presenting the Judge with relevant, current information so that he or she can make the best possible decision regarding any minor children who may be involved. I do not believe it to be appropriate in most cases for the Guardian to offer an opinion regarding custody, and will not allow him to do so unless the circumstances are such that it may be necessary.

The Guardian will be subject to cross examination, and should be questioned as to his or her compliance with all statutory requirements. I expect to appoint seasoned, experienced, ethical Guardians, and I will require that they file written reports at least twenty days prior to the final hearing of any contested cases in which they are involved. I shall further require that they adhere to the rules of evidence in the presentation of their cases and in their written reports. I believe that a Guardian can make a valuable contribution on behalf of the children, and I will carefully consider, but not solely rely on the report and recommendations of the Guardian. Further, I will monitor their fees and will disallow any inappropriate charges.

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

I believe that a judge should follow the law. It is the purview of the legislature and of the executive branch to set public policy, and the duty of the judicial branch to interpret and to apply it. When I might not personally agree with some aspect of a particular law, I would consider it my duty to set my personal opinion aside and to require compliance with the laws as they have been

- determined by the elected officials charged with formulating them and by the interpretation of the appellate courts.
17. Canon 4 allows a judge to engage in activities to improve the law, legal system, and administration of justice. What activities would you plan to undertake to further this improvement of the legal system? I would speak or teach at CLE or other law-related activities. If asked, I would be willing to serve as an officer, director, trustee or non-legal advisor to an entity devoted to the improvement of law.
18. Do you feel that the pressure of serving as a judge would strain personal relationships (i.e. spouse, children, friends, or relatives)? How would you plan to address this?
My children are grown. My wife and I have been happily married for thirty-one years, during many of which I have travelled extensively in the course of my work. I have always worked very long hours. Since my wife has been working for the last several years as a Guardian *ad litem*, she plans to retire upon my appointment. Despite heavy work schedules, we are both very involved with our children, our friends, and our church activities, and all of them are accustomed to our schedules. We as a family have always been able to deal with these issues.
19. Would you give any special considerations to a *pro se* litigant in family court?
Upon first encountering a *pro se* litigants, I would encourage them to retain counsel if at all possible, and would inquire as to their eligibility for free legal services if their economic circumstances should make retaining counsel an impossibility for them. If they are unable or unwilling to retain counsel, I would make every effort to listen carefully to their presentation of their cases. I would, however, require that they adhere to the rules of evidence, and I would not continue cases simply because a litigant has failed to retain counsel. I would ask such questions of a *pro se* litigant as might be necessary to obtain relevant information, but would at all times be careful not to act in any capacity as his or her attorney.
20. Are you involved in any active investments from which you derive additional income that might impair your appearance of impartiality?
No.
21. Would you hear a case where you or a member of your family held a *de minimis* financial interest in a party involved?
No.
22. Do you belong to any organizations that discriminate based on race, religion, or gender?
No.
23. Have you met the mandatory minimum hours requirement for continuing legal education courses?

- Yes. I need a few more hours for this year.
24. What percentage of your legal experience (including experience as a special appointed judge or referee) concerns the following areas? If you do not have experience in one of these areas, can you suggest how you would compensate for that particular area of practice?
- a. Divorce and equitable distribution: 30%
 - b. Child custody: 20 %
 - c. Adoption: 5%
 - d. Abuse and neglect: 5%
 - e. Juvenile cases: 40%
25. What do you feel is the appropriate demeanor for a judge?
- Most litigants appearing in Family Court are already nervous and under some distress. They desire that the Judge hearing their case treat them with courtesy and respect, that he or she listen carefully to them and to their counsel, and that the Judge render a fair, thoughtful decision. I would strive at all times to treat everyone appearing before me, both litigants and counsel, with dignity and consideration. It is my desire at all times not only to be completely fair and impartial, but also, by my demeanor, to ensure that everyone in the courtroom feels that he or she has received a full, fair, and careful hearing, and has had the best possible opportunity to make his or her case.
26. Would the rules that you expressed in your previous answer apply only while you are on the bench or in chambers, or would these rules apply seven days a week, twenty-four hours a day?
- These rules would apply seven days a week, twenty-four hours a day. By its nature, the position occupied by a judge is one that causes him or her to be subject, in turn, to the judgment of the public in every aspect of his or her life. I would conduct myself at all times and in all situations in a manner intended to uphold the honor and dignity of my office.
27. Do you feel that it is ever appropriate to be angry with a member of the public who would appear before you, especially with a criminal defendant? Is anger ever appropriate in dealing with attorneys or a pro se litigant?
- No. Anger is not appropriate. If a person appears in court, the expression of anger on the part of the judge serves only to make him or her feel that the person hearing the case is expressing an active bias. While sternness is frequently necessary, overt anger does not serve the cause of justice.
28. How much money have you spent on your campaign? If the amount is over \$100, has that been reported to the House and Senate Ethics Committees?

To date, I have expended no monetary sums beyond those involved in postage and the purchase of paper.

29. If you are a sitting judge, have you used judicial letterhead or the services of your staff while campaigning for this office?
Not applicable.
30. Have you sought or received the pledge of any legislator prior to this date?
No.
31. Have you sought or been offered a conditional pledge of support by any legislator pending the outcome of your screening?
No.
32. 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.
33. Have you contacted any members of the Judicial Merit Selection Commission?
No.
34. 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/David Jamison Rutledge

Sworn to before me this 25th day of September, 2008.

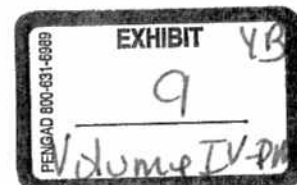
Notary Public for South Carolina

My commission expires: 9/16/2015

**JUDICIAL MERIT SELECTION COMMISSION
PERSONAL DATA QUESTIONNAIRE**

Court, Position, and Seat # for which you are applying: Family Court, Thirteenth Judicial Circuit, Seat 6

1. NAME: Mr. Michael Don Stokes
BUSINESS ADDRESS: 901 W. Poinsett Street
Greer, SC 29650
6 Bailey Mill Road
Travelers Rest, SC 29690
E-MAIL ADDRESS: Mstokes@greenvillecounty.org
BUSINESS NUMBER: (864)895-0478 and 864-801-0540
2. Date of Birth: 1966
Place of Birth: Greer, South Carolina
3. Are you a citizen of South Carolina? Yes.
Have you been a resident of this state for at least the immediate past five years? Yes.
5. Family Status: Married on June 9, 1990, to Rachel Elizabeth Few Stokes.
Never divorced. Three children.
6. Have you served in the military? None.
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) North Greenville College (now University), Summer 1984. I took one history course in summer school to gain experience about college courses. I left because I was already enrolled to begin Furman University in the fall as a freshman;
- (b) Furman University, Fall 1984-Spring 1988. B.A. in Political Science;
- (c) University of South Carolina, School of Law, Fall 1988-Spring 1991. 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.
- I was admitted to the South Carolina Bar in 1991. To my knowledge I have always been a member in good standing. I have not attempted to be admitted to any other state bars. I passed the bar exam on my first attempt.
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) South Carolina Law Review, 1989-1991;



- (b) Editorial Board, 1990-1991.
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)	STOP Violence Against Women	4/1/02;
(b)	Magistrate Mandatory School	10/18/02;
(c)	SCSCJA Seminar	9/4-9/8/02;
(d)	Seminar on Civil Law	7/22/03;
(e)	The Probate Process	8/22/03;
(f)	SCSCJA Seminar	9/4/08;
(g)	Magistrate Mandatory School	10/31/03;
(h)	Family Law in SC	12/15/03;
(i)	Judicial Oath of Office	11/19/04;
(j)	Magistrate Mandatory School	11/19/04;
(k)	SCSCJA Legislative Reception and Seminar	3/9/05;
(l)	Family Court Judges Seminar	12/2/05;
(m)	Magistrate Mandatory School	11/03/06;
(n)	SCSCJA Staff Judges Seminar	2/14/07;
(o)	SCSCJA Legislative Reception and Seminar	3/7/07;
(p)	Advanced Studies Seminar	5/14-15/07;
(q)	SCSCJA Summer Seminar	7/9-11/07;
(r)	Domestic Abuse Seminar	10/2007;
(r)	Magistrate Mandatory School	11/2/07;
(s)	CDV Training	5/30/08;
(t)	SCSCJA Seminar	7/27-29/08.

11. Have you taught law-related courses or lectured at bar association conferences, educational institutions, or continuing legal or judicial education programs? None.
12. List all published books and articles you have written and give citations and the dates of publication for each.
- (a) Comment, Logical Relationship Test for Computing Counterclaims Adopted, South Carolina Law Review, Vol. 42, number 1, pp.188-191 (Autumn 1990);
- (b) Comment, Volunteers Ineligible for Workers' Compensation: Subject Matter Jurisdiction over Compensation Agreements Unsettled, South Carolina Law Review, Vol. 42, number 1, pp. 273-275 (Autumn 1990).
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, 1991;
- (b) United States District Court for the District of South Carolina, 1992;
- (c) United States Court of Appeals, Fourth Circuit, 1992.

14. Describe chronologically your legal experience since graduation from law school and include a list of all law firms with which you have been associated. Describe the general character of your practice and divide it into periods with dates if its character has changed over the years.
- (a) 1991-1996, Associate, Chapman, Harter & Groves, PA.
During this time I was engaged in the general practice of law and focused on family law, including divorce and equitable division of property and child custody cases. I also engaged in a real estate practice doing residential home closings and refinances. I was further exposed to insurance defense work associated with motor vehicle accidents, and defending the State of South Carolina in tort claims made against the state from highway construction and suits brought against the state and its agencies, especially the Department of Corrections. I also was involved in preparing workers' compensation appeals to the full Workers' Compensation Commission, the circuit court and the state supreme court.
 - (b) 1996-2000, Sole practitioner, Greenville, South Carolina
During this time I maintained a general practice much as before, but expanded my practice areas in the field of family law to encompass not only divorce, child custody and equitable division cases, but also adoption and abuse and neglect cases. I continued to engage in residential real estate purchases and refinances, but also expanded into some commercial real estate work. This real estate work lead to getting into the area of representing financial institutions, and doing general counsel work for a credit union.
 - (c) 2000-2001, Partner, Mims & Stokes, Greer, South Carolina
While in partnership with Hank Mims, I continued to practice all areas of family law such as divorce, equitable division, adoption, and abuse and neglect cases. Further, I continued my practice in the real estate areas, and began to practice more in the area of criminal law.
 - (d) 2001-2005, Sole practitioner, Greer, South Carolina
My practice during this time began to sharpen its focus more tightly onto a more specialized practice in the area of divorces, equitable division, adoption, and abuse and neglect cases in the family law area. Due to my office now being located in my hometown, I was called on to develop a practice in the area of probate law as its relates to estates and guardian and conservatorships. I maintained the level of involvement in real estate and financial institution representation I had engaged in previously.
 - (e) 2005-present, Partner, Stokes & Southerlin, PA.
The practice as a whole continues to be heavily involved in divorces, equitable division of property, adoption, and abuse and neglect cases as well as probate law, real property closings, estate and guardianship and

conservator cases. For the last two years my personal practice has been almost exclusively family law and some probate.;

- (f) 1996-present, Greenville County Magistrate Judge. In this capacity I am the magistrate who serves the north east quadrant of Greenville County which includes the communities of northern Greer and Travelers Rest, Blue Ridge, Tigerville, Mountain View, Gowensville, Skyland, and the Cliffs of Glassy. I manage a free standing office and am responsible for docket management for the civil docket, jury and non-jury, and the criminal non-jury docket. (The Solicitor's Office maintains the criminal jury trial docket). I am also responsible for all public monies that pass through the office and managing the court's staff. This office handles criminal cases, summons and complaints, claims and deliveries, restraining orders and landlord tenant matters. I am also responsible for hearing all cases that arise under a county ordinance relating to building standards, property maintenance, zoning, animal control, and enforcement of county tax collection ordinances. I have an office and courtroom at Greenville County Square that is used for these county wide cases.

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.

I have maintained a practice in Family Court for the entire time I have been an attorney. Most of my cases have involved divorce and property distribution along with child custody. As with most good practitioners, I have settled approximately 90 to 95% of my cases. I attribute this good settlement record to being able to work well with other attorneys and clients, and to being able to explain the law to clients that applies to the client's case, so that settlement can be realistically pursued for the client and with the client's support and enthusiasm. The law in these areas is reasonably settled and practitioners should be able to predict with reasonable accuracy the range within which a decision by a court will fall. Also, settlements have been facilitated in Greenville County because this county has had mandatory mediation for some time and this has greatly helped both litigants and the courts. Of course, for various reasons not all cases settle, and I have tried many cases before the court to a conclusion.

I have done several adoptions in my practice. I have undertaken private adoptions, step-parent adoptions, and adoptions that involved DSS where foster parents adopt the children that have been placed in their care.

I have handled abuse and neglect cases that have involved DSS and private actions that involved issues of abuse and neglect. Our office has a general

policy that we handle the DSS cases assigned to us and rarely hire another attorney to take our place. Therefore, over the years, I have had extensive exposure to cases involving abuse, neglect, and the termination of parental rights.

I have never had the opportunity to handle a juvenile case. However, I have reviewed the procedure in preparing for this process, both as it relates to crimes and status offences, I have litigated several criminal matters, and as a magistrate I have heard hundreds of criminal matters so I feel comfortable with the underlying criminal law and believe that I am competent to apply the process in a juvenile case in Family Court.

15. What is your rating in Martindale-Hubbell? My last known listing is BV.

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

16. What was the frequency of your court appearances during the last five years?

(a) federal: 0;

(b) state: Attorney, 3-6 per month average; Magistrate, daily.

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

(a) civil: 35%;

(b) criminal: 10%;

(c) domestic: 55%.

18. What percentage of your practice in trial court during the last five years involved matters that went to a jury?

(a) jury: 5%;

(b) non-jury: 95%.

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

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

(a) Knight v. Knight

Family Court case involving a long term marriage, significant real property in two states and a small business;

(b) Bishop v. Bishop

Family Court case involving a long term marriage, significant debt, a bankruptcy issue, and several contempt proceedings;

(c) Marion v. Marion

Family Court case involving real and personal property issues and significant Quadro issues;

(d) Wade v. Wade

Family Court case involving allegations of abuse and property issues;

- (e) Holt v. Holt
Child custody dispute involving allegations of abuse, drug abuse, and competing jurisdiction between two states.
20. List up to five civil appeals that you have personally handled. Give the case name, the court, the date of decision, and the citation if the case was reported.
- (a) Mullinax v. Winn-Dixie Stores, Inc., 318 S.C. 431, 458 S.E. 2d 76 (Ct. App. 1995);
- (b) Seeger v. Wrenn Handling Company, Employer, and Farmington Casualty Company, Carrier, Unpublished opinion of Court of Appeals, 1999.
21. List up to five criminal appeals that you have personally handled. Give the case name, the court, the date of decision and the citation if the case was reported. None.
22. Have you ever held judicial office?
I was appointed a Greenville County Magistrate Judge in November 1996 and continue to serve. The criminal jurisdiction is offenses not exceeding a fine of \$500.00 (plus assessments) or 30 days imprisonment, or both. The civil jurisdiction is matters where the amount in controversy does not exceed \$7500.00. Unlimited jurisdiction in landlord/tenant matters.
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) EmTec eviction. Case involved the eviction of a manufacturing plant in Travelers Rest, South Carolina. Case involved multiple parties and the amount in controversy was well into the six-figure range;
- (b) I handled the criminal case as a magistrate when a fire escaped and burned a portion of Paris Mountain. The case is significant in that I had to handle the media attention given to the case;
- (c) Most civil cases I hear are without significance on their own (excepting the parties). However, they are significant as a group here because of the volume of the cases that I have been called upon to decide is now well in excess of one thousand;
- (d) Most criminal cases standing alone are without significance at my current level of court (excepting the parties and victims). However, the volume of cases I have decided is significant in that that number now conservatively exceeds 750;
- (e) I believe that the most significant fact of my time on the Magistrate court is that I do not believe I have been appealed more than 5 or 6 times in 12 years and that I have a clean ethical record.
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? 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.
I continued my practice of law while a continuing part-time judge from 1996 to the present at the firms listed in the answer to question 14 above. I have always been my own supervisor.
26. Have you ever been an unsuccessful candidate for elective, judicial, or other public office?
In the Family Court elections for May 2008, I was not successful. I was found qualified, but not nominated.
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) While in college I worked the summer of 1985 at North Greenville College in the dishroom;
 - (b) Also, I worked at Belk's in Greer, South Carolina as a salesman and a porter;
 - (c) My last year of college and during breaks from law school I worked as a courier and law clerk for Chapman, Harter & Groves, PA in Greenville, South Carolina. These years would cover 1985-1990. I was with the Chapman firm from February 1988-1990.
- I do not remember the exact dates for Belk's but it was approximately from Christmas 1985 until Christmas 1987. I worked on my family's farm from about the age of six and this work continues on occasion until the present.
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.
- (a) I am the president of Stokes & Southerlin, PA. This is the vehicle for my private law practice. I am involved with the practice of law and in the major business decisions of this office. My law partner handles the day to day management duties. I have been president since this professional association was formed in 2005;
 - (b) I am the vice president of Northern Greenville Investments, LLC. This is a LLC that was formed by Kenneth G. Southerlin, Jr. and I to invest in real property and real property related investments. The LLC does not currently own any real property. The LLC currently holds only a mortgage and two promissory notes. We are not actively seeking business at this time, but the LLC is operating to the extent describe here.
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.
- I have practiced law with several individuals over the years. I would recuse myself from hearing any cases involving these attorneys. I would do the same in regards to cases that involved any parties that I may have represented in the past. Other than these situations, I do not believe I would have any financial or business relationships that would result in any potential conflict of interest.
31. Have you ever been arrested, charged, or held by federal, state, or other law enforcement authorities for violation or for suspicion of violation of any federal law or regulation, state law or regulation, or county or municipal law, regulation, or ordinance, or any other law, including another country's law?
- No.
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?
- The SC Department of Revenue filed tax liens against my former law office. However, the liens were cancelled when we were able to show that the quarters they were concerned about had been paid under the new law firm, Stokes & Southerlin, PA. In the end no taxes were due, no interest was due and no penalty was due and the liens were removed. All taxes had been timely paid.
- I have never defaulted on a student loan. All student loans I had have been paid off. I have never filed for bankruptcy.
34. Have you ever been sued, either personally or professionally?
- I was named as a party in a foreclosure action involving an estate for which I am the personal representative. I had no ownership interest, or personal interest in the suit other than as personal representative. After communicating with the plaintiff's attorney I was dismissed as an individual. Later, I was able to gather sufficient assets from the estate to pay off the underlying mortgage and the whole case was subsequently settled and dismissed. I have not been sued in any lawsuits that truly involved me as an individual or professionally.
36. Are you now or have you ever been employed as a "lobbyist," as defined by S.C. Code § 2-17-10(13), or have you acted in the capacity of a "lobbyist's principal," as defined by S.C. Code § 2-17-10(14)? No.
37. Since filing with the Commission your letter of intent to run for judicial office, have you accepted lodging, transportation, entertainment, food, meals, beverages, money, or any other thing of value as defined by S.C. Code § 2-17-10(1) from a lobbyist or lobbyist's principal? No.
38. S.C. Code § 8-13-700 provides, in part, that "[n]o public official, public member, or public employee may knowingly use his official office,

membership, or employment to obtain an economic interest for himself, a member of his immediate family, an individual with whom he is associated, or a business with which he is associated." Please detail any knowledge you have of any formal charges or informal allegations against you or any other candidate for violations of these provisions.

I know of no such charges or allegations against either me or any other candidate.

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 no such charges or allegations against either me or any other candidate.
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.
I have spent approximately \$75.00 for postage. No other expenditures have been made.
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?
I have made no such request of my friends or colleagues. Further, any friend or colleague who I would expect to assist me is aware of the 48-hour rule. To my personal knowledge no one has contacted a member of the General Assembly on my behalf.
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;

- (b) Greenville County Bar.
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) Boy Scouts of America
Offices: Assistant District Commissioner, Assistant Scoutmaster, Assistant cubmaster, Webelos Den Leader, Den Leader. Eagle Scout with Silver Palm, Vigil Honor, Order of the Arrow, BSA, Webelos Den Leader of the Year 2007, Foothills District, Blue Ridge Council, BSA;
- (b) Few's Chapel United Methodist Church
Offices: Chairman, Administrative Council, Lay leader, Trustee, Choir;
- (c) Blue Ridge Ruritan Club
Offices: President, Vice President, Director, Secretary, Zone Governor;
- (d) Masonic Lodge. Bailey Lodge, Greer, South Carolina. No offices held;
- (e) Scottish Rite. Greenville, SC. No offices held;
- (f) Commerce Club. Greenville, SC. No offices held.

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.

If elected, my life experience would greatly affect the type of family court judge I would be and has already affected the type of magistrate into which I am evolving. I was raised on my family's farm with both my mother and father, who worked hard to provide an education, guidance and opportunity for travel and learning experiences for me and my brother. While both my brother and I were expected to achieve to the best of our abilities in school, scouts, and other extracurricular activities and to contribute to daily farm operation, we never knew want or even worried about where our material needs would come from. I now realize that our relative financial comfort was in large part because my mother also worked outside the home so that we could have these privileges that others could not. I now also realize that there were no extraneous calamities, such as long-term illness, job loss, or severe family situations that many people deal with every day. Thus, from my perspective, my early family life was rather free of struggle and worry.

I graduated from Blue Ridge High School in 1984 and went directly to college at Furman University, and from there to Law School at the University of South Carolina in Columbia. While I hope my children have a similar, ideal start in life, my early background was not conducive to learning some lessons about the real world.

After Law School, I immediately entered private practice and did this for about five years. At the age of thirty I was appointed as a magistrate for Greenville County. In hindsight, this was exceedingly young for someone to be made a

judge. At that time I had had no children, no personal hardships, no health problems in my family to contend with, and had had little exposure to people who were not like me and had not had the similar experiences and opportunities I had enjoyed. However, since that time I have had to live through life situations I would never have anticipated. And I have seen others in trying circumstances through my law practice and as a magistrate.

I have been blessed and challenged by the births of my three children, two sons and one daughter, two of whom are special-needs children. One of my children is severely dyslexic, coupled with central auditory and visual processing deficiencies. She requires special treatment for her impairments and a highly-specialized, private education. My oldest child is considered to be a high-functioning autistic child on the autism spectrum. His official diagnosis is "PDD-NOS," (Pervasive Developmental Disorder, Not Otherwise Specified), as he exhibits many traits of Asperger's Disorder, but does not fully meet all the criteria. His condition requires extensive medical and therapy intervention and requires us to learn volumes of information regarding how to nurture him so that he can grow and thrive. The blessing of having my children is that through them I have an opportunity to view life from an angle that is vastly different from "normal" people. They teach me to see and focus on events and situations that would otherwise be overlooked or given little notice. The challenge is that nurturing them properly requires tremendous amounts of patience; their situations require that I must provide more time, advance notice, latitude, and specific detailed instructions for them to perform what would be considered routine tasks for others.

Particularly with my son, I have to continually monitor my own demeanor, as he will absorb the demeanor and attitude of the parent with whom he most closely identifies. With autism such as his, he does not instinctively know how he is to interact with others, both privately and in social situations. The way he learns to deal with other people and society is essentially by memorizing what to do from watching his role models. The professionals inform me and my wife that he will learn most of his social skills from watching me. Thus, I have learned to be mindful of my demeanor and social interaction skills to a heightened degree. I use every opportunity to set a good example for him. I am by nature a mild and friendly person, but his condition has taught me to read the demeanor of others as to how they are reacting to me. This increased awareness has been invaluable to me as a magistrate, an attorney, and as a person in general.

Having my children and the cost associated with treating their special needs has enabled me to be aware of how difficult it is to make ends meet with all the financial demands of caring for and supporting a family. I am greatly sympathetic with families and persons who are working hard and having to be mindful of their finances. I am also sympathetic to families like my own who are not only struggling financially, as is my family to help our children, but also emotionally, and have not been as fortunate as I have been obtaining

educational, medical and emotional support. Many parents with children like mine are unable to provide the services they require regardless of their hard work and loving intentions.

I have also seen the difficulty a family can have when one of the wage earners is disabled. My wife was temporarily disabled for about six months; with three children, elderly parents, the expense for her medical care, and the loss of income, I experienced a very rude awakening to the struggles some families experience all the time.

Despite the sometimes frustrating hardship, I am most thankful that I am living through these situations. These trials have given me the insight to better understand the people who come through the courtroom or my law office. Before, I intellectually understood the hardships of others, but now I have some understanding and empathy for how they feel, what they fear, and what they hope for. I like and respect the person I have become from having experienced these trials.

These experiences along with the simple passing of time and getting older have made me such a better person, judge and attorney. The forty-two year old judge and attorney has much smoother edges than the thirty-year old, well-educated novice. I am now much more relaxed with my position and am less guarded and less rigid. I have developed more patience with others as time goes on and do not hesitate to take a few extra minutes to let a client or a party say a few words (during a bench trial) that may not be relevant under the rules of evidence or even to the case at hand so that they feel better and I have learned that this is not a case of a judge losing control of the courtroom or displaying weakness, but is a sign of a mature judge who tries to understand people and have a bit of compassion for them.

I relate this experience to the commission in an attempt to show that I understand a judge must evolve and grow. I hope I continue to grow into a better person and judge whether I am blessed enough be elected to the family court or if I remain a magistrate. My life experience is different from the other candidates for this race and indeed for almost any family court race in that I come to this commission with significant prior judicial experience. This is both helpful and harmful to my candidacy. It is probably helpful in that I have learned many judicial skills that come from pure experience and cannot be learned in any way except by sitting on a bench and trying cases. I am well aware that there are significant differences between a job to be done by a magistrate and a job to be done by a family court judge but fundamental judicial skills are transferable, and I have learned many of these skills. On the other hand, I have a record. I have made many of the new judge mistakes prior to coming before this commission that the vast majority of other candidates will not make until after this commission has passed judgment on them. I have come into contact with many more parties and attorneys than other family court candidates have traditionally been exposed. I do not run from this record at all. In fact, I am proud of my record and the good judicial

reputation I have earned. I am led to believe I am and always have been a well liked judge and attorney with whom people do not dread or fear coming into contact with or appearing in court before. But I do feel that the judge today is a far superior one to the one twelve, ten or even five years ago and I hope the one I might get to be, with this commissions blessing, in future years is better than the one before you today.

49. References:

- (a) R. Carey Werner
110 Oakdale Ave.
Greer, South Carolina 29651
864-877-3501;
- (b) Heather Witt
Branch Banking & Trust Co.
1319 W. Poinsett Street
Greer, South Carolina 29650
864-968-1020;
- (c) Harry A. Chapman, Jr.
1012 E. Washington Street
Greenville, South Carolina 29601
864-233-4500;
- (d) Amy G. Richmond
Woodruff Road Corporate Center
341 Prado Way
Greenville, South Carolina 29607
864-234-7304;
- (e) Kenneth G. Southerlin, Jr.
PO Box 2077
Greer, South Carolina 29652;
- (f) Russell W. Harter, Jr.
1012 E. Washington Street
Greenville, South Carolina 29601
864-233-4500.

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/Michael Don Stokes

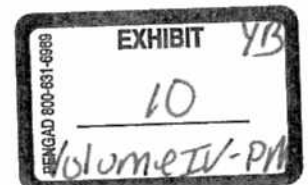
Date: 09/25/08

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

Family Court
(New Candidate)

Full Name: Michael Don Stokes
Business Address: 901 W. Poinsett Street
Greer, South Carolina 29650
6 Bailey Mill Road
Travelers Rest, South Carolina 29690
Business Telephone: 864-801-0540 and 864-895-0478

1. Why do you want to serve as a Family Court Judge?
I would like to be a Family Court judge for several reasons: professional challenge, public service and an opportunity to help others. I have had an active family law practice throughout my legal career that has spanned seventeen years. Family Law is my favorite practice area, and if I should be so fortunate as to be elected, it would then be the exclusive area of my legal activity. I find this area of law to be interesting and challenging from a professional standpoint and I enjoy keeping up with the law in this area.
Also, if I were elected, it would allow me to devote myself fully to public service. I have been very fortunate in my career to have devoted the majority of my time to public service, and I have found it to be more emotionally and spiritually rewarding than private practice. I believe the office of family court judge affords a tremendous opportunity to make a difference in our society on a case-by-case basis. This office provides a unique chance to help and safeguard children who cannot protect themselves. Children are the most valuable resource of a society, and every action that can be done to assist any child in having a productive and fulfilling life is worth undertaking. I have been greatly honored in being allowed to serve as a magistrate for twelve years. I have enjoyed this service to my community, and I have found it to be worthwhile. I would be furthered honored if the commission and the General Assembly allowed me to expand my public service by working on the Family Court.
2. Do you plan to serve your full term if elected? Yes.
3. Do you have any plans to return to private practice one day?
If chosen to serve on this court I would anticipate staying in this position until retirement.



4. Have you met the statutory 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 communication is one of the largest ethical problems facing judges on a regular basis. I do not think *ex parte* communications should be tolerated except for the sole purpose of scheduling, which is allowed under our state's ethical canons. If an attorney needs to speak with a judge, it is easy to set up a conference call with all parties on the line, or letters, faxes, and e-mails can be sent to the court with all parties receiving copies of all correspondence. However, I do not think items that go to the merits of a case should be handled this way. Those issues should be heard in court on the record. These methods should be used solely in such situations as when an attorney or party has had a personal emergency or some issue has arisen in a case and the court needs to be informed of the issue so that a correction can be made or to determine if further hearings are needed. When *pro se* litigants seek to "see the judge" or "talk to the judge" it should be explained to them, preferably by staff that such communication is not allowed because it is unfair for one side of a dispute to have a conversation with a judge or to give him any "private" information without the other side being present to know what is being said. They should be politely told to have everything they want to address ready at the hearing and the judge will be happy to consider the entire matter at that time. This procedure should handle most *pro se* attempts at *ex parte* communication. I do not think these litigants should be treated harshly because in most cases their *ex parte* communication attempts are from not knowing they should not do this and not from some intention to do anything wrong or gain some unfair advantage. If a judge has received *ex parte* communications, either inadvertently or intentionally, I think the parties should be notified and if the *ex parte* communication affects the merits of the case, and in most instances it would, then the judge should recuse himself or herself from the case. If there is any doubt as to whether a recusal should be done I would err on the side of taking the recusal and safeguarding the integrity of the judicial system.

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

I would prefer to recuse myself from situations involving former associates and law partners. The relationships with these individuals

is very close and personal and the ties frequently last a lifetime. If a litigant subsequently learns that the opposing attorney was once the law partner of the judge it destroys the appearance of an unbiased judiciary even if the case was handled with complete competency and honesty.

I do not think that the fact that a lawyer-legislator appears with a client in a judge's courtroom is alone grounds for a recusal. I do not believe one judge is any more compromised than another judge in this situation, so a recusal would not remedy the situation. However, if there was an additional connection between the judge and the lawyer-legislator that went beyond the lawyer solely being a legislator, such as former law partner, or some family connection, then that would dictate a recusal and I believe the judge should recuse himself or herself. The lawyer-legislators who I have seen appear in court did not appear to have sought or expected special treatment, and I have not heard of any judge experiencing repercussions from a lawyer-legislator.

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

I would almost always grant any motion for recusal so long as I did not think it was just some ploy for delay and would be used on the next judge also. Our system of justice will lose its credibility if the public loses faith in the impartiality of the judges. I think that if a litigant or an attorney feels strong enough about a matter to seek a recusal it should be granted if it is in any way justified. No harm can come to the justice system from a recusal, but a case could appear tainted from the denial of a recusal. It is better for the system of justice to err on the side of a recusal in any doubtful situation.

8. How would you handle the appearance of impropriety because of the financial or social involvement of your spouse or a close relative? The appearance of impropriety is as bad as a true impropriety. The perception of the judicial system and the judiciary is greatly based on appearance. If it appears improper, I would not handle the case. If the judge's spouse or a close family member of the judge had a financial or social relationship with a party, I believe it is proper for the judge to recuse himself or herself from the case.
9. What standards would you set for yourself regarding the acceptance of gifts or social hospitality?

I would only accept gifts from people who would give me a gift regardless of what my job might be. I would take gifts only from my immediate family, my parents, my in-laws, and my brother. As to social hospitality, I would not accept anything more than a beverage

- and finger-food or buffet-table type food from someone with whom I would not normally have a social relationship. I would have lunch or something of that nature with someone who had no interest in my position, but was close to me such as my college roommate or other such old school or boy scout friend.
10. How would you handle a situation in which you became aware of misconduct of a lawyer or of a fellow judge?
As much as it would be distasteful, the rules and canons require that misconduct must be reported. I would want to know enough about the situation before the report is made so that I could satisfy myself that there was at least some "probable cause" that something has occurred. Baseless allegations should not be made as they waste the time and resources of the investigators or can unjustly damage the reputation of the judge or lawyer. If, however, a situation was a close call between whether misconduct occurred or not it would be prudent to err on the side of reporting the situation and allow the investigation to clear up the matter.
11. Are you affiliated with any political parties, boards or commissions that, if you were elected, would need to be evaluated?
No.
12. Do you have any business activities that you would envision remaining involved with if elected to the bench?
No, I plan to end all non-judicial business activities if elected.
13. Since family court judges do not have law clerks, how would you handle the drafting of orders?
I would follow the existing practice of requesting lawyers in the case to draft orders, exchange them with each other for review, and then present the order to the court for signature. If the order was not forthcoming, I would politely remind the drafting attorney about the order needing to be done. In situations in which that practice would not work, I would draft, sign, and file the order myself. I would expect the situation where the judge drafts his own order to occur very rarely.
14. If elected, what method would you use to ensure that you and your staff meet deadlines?
I have followed the general practice of calendaring all deadlines with a reminder scheduled for a few days before the actual deadline. This method has served me well and I would continue to use it if elected.
15. If elected, what specific actions or steps would you take to ensure that the guidelines of the Guardian Ad Litem statutes are followed during the pendency of a case?
Children must be appointed legal representation and a guardian *ad litem* pursuant to statute when the statute requires. If elected, I would have the statutory authority of the guardian *ad litem* set out in

the appointing order so that the guardian can simply show individuals such as doctors, day care facilities, and school officials that the guardian has court authorization to gather the information the guardian is seeking. The guardian's authority is set forth in the statute but I believe this procedure would be helpful to guardians and reassuring to the people from whom confidential information is gathered. In addition, if elected, I would use guardians who have been properly trained.

Guardians file an affidavit that sets forth they are qualified by statute, but, at the hearing I would question the guardian about the statutory qualifications on the record. This would only take a moment and in many cases it would reassure the parties that the guardian looking into the case on their children's behalf is properly qualified for the task they are doing because the parties may have no knowledge of the guardian's qualifications.

If the guardian's report did not provide the court with adequate information or the guardian did not carry out the statutory duties of a guardian *ad litem*, I would require the guardian to bring the report up to statutory requirements (probably without additional expense to the parties if the guardian alone was at fault), and if that did not correct the problem I would not hesitate to replace a guardian even if the case were delayed because it is in the best interest of the minor children that the court have full and accurate information.

I am a great believer in check-list, and I would keep a GAL check-list with the statutory requirements listed in an easy form on the bench that would allow me to quickly confirm that the Guardian statutes are followed. (If elected, I would keep other check-list in this notebook as well, such as requirements for termination or parental rights, awarding of attorneys fees, etc. so that when I would be addressing these issues, I could check myself each time.

16. What is your philosophy on "judicial activism," and what effect should judges have in setting or promoting public policy?
I believe that judges should apply the law as written to the facts of a case and produce a ruling. I believe that the creation of law and the setting of public policy is the task of the people's elected representatives and the elected executive, not the judiciary. I do not think judges should bend and twist a law to make it fit a situation for which it was not intended, nor do I think that a judge should try to contort an existing law in some novel way to advance the judge's view of what the law should be or the direction that the law should take. However, if there was an area of the law that I believed needed improvement, I would not hesitate to bring that to the attention of the legislative branch; but it would be for the legislature to decide if the

- law should be changed or enacted not the judiciary. Judges should restrict their activities to adjudication within the existing law only.
17. Canon 4 allows a judge to engage in activities to improve the law, legal system, and administration of justice. What activities would you plan to undertake to further this improvement of the legal system? If elected, I would join the appropriate judges' associations that apply to this court. If asked, I would be excited to serve on any commission created by the legislature or the Supreme Court for the purpose of reviewing and improving the areas of family law. Further, I would make specific suggestions as were proper to the legislature, or the members of the legislature, to give them the opportunity to address what I saw as shortcomings or areas of improvement for the law if that body felt my ideas were meritorious.
18. Do you feel that the pressure of serving as a judge would strain personal relationships (i.e. spouse, children, friends, or relatives)? How would you plan to address this? If elected, I do not believe my personal relationships would suffer. All of my family and friends are supportive, and understand the demands this office would make, especially the periodic travel, if I were to be elected.
19. Would you give any special considerations to a *pro se* litigant in family court? If elected, the only special consideration I would give to a *pro se* litigant is to have patience with that party as they move through the unfamiliar legal system and to assure myself that they understood the process of what was or would be happening in the case. I would also want to assure myself that they were capable of handling their own case. In a situation where no prejudice would occur I believe I would be generous in granting a continuance to allow a *pro se* litigant to obtain counsel if he or she changed his or her mind and wanted a lawyer. I also do not believe it would be prejudicial to allow a *pro se* litigant some latitude with procedural matters. For example, a *pro se* litigant may not know a financial declaration is needed. In this case I see no harm in allowing the *pro se* litigant to give his financial report orally. To go further than this I believe would be unfair to a represented litigant. Above all the judge must appear and be impartial and fair to all parties.
20. Are you involved in any active investments from which you derive additional income that might impair your appearance of impartiality? No.
21. Would you hear a case where you or a member of your family held a *de minimis* financial interest in a party involved? If elected, I would not want to hear a case where I or a family member had a *de minimus* financial interest. It would give the appearance of

impropriety even if I were completely evenhanded. I would not believe a judge would be unethical if he or she disclosed the interest on the record and the parties and their attorneys agreed to waive the potential conflict of interest, but I would not be comfortable personally with this and would prefer to recuse myself.

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

No.

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

Yes, my CLE hours are current.

24. What percentage of your legal experience (including experience as a special appointed judge or referee) concerns the following areas? If you do not have experience in one of these areas, can you suggest how you would compensate for that particular area of practice?

a. Divorce and equitable distribution: 50%

b. Child custody: 40%

c. Adoption: 5%

d. Abuse and neglect: 5%

Juvenile cases: 0% While I have never handled a juvenile criminal matter or status offence, I have adjudicated hundreds of criminal cases as a magistrate and I have represented numerous criminal defendants as an attorney, so I am very familiar with the underlying criminal law. As preparation for this attempt for a seat on the family court, I have studied the procedure for juvenile cases and I feel confident that if elected I would be able to take what I have studied, along with my experience, and be competent in this area.

e. I have answered these percentages based on my family law experience and have excluded other areas. If this is not correct, please advise.

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

A judge has to be patient. He has to listen to what each litigant has to say. He has to treat all people with dignity and respect. I think this is sometimes hard when it is a routine case to the judge and the litigant is going through the same excuses the judge has heard countless times before. However, a routine case to the judge and the bar is the most important case in the world to the litigant. The judge has to be truly interested and engaged and consider the case fully. I think parties would be reassured about a judge hearing their case if the judge repeated significant facts about the case in the course of making the ruling, thus ensuring the judge's full attention. The judge must be deliberate in all decisions and consciously weigh all the factors in each case and resist the urge to produce a boilerplate ruling.

The judge must appear firm, but not hateful and unapproachable. People should not be afraid to tell the judge what they need him to know. A judge must not let anger or personal feelings dictate his or her actions when it is time to sentence a person or decide any matter between the parties. A judge should try to run the court on a timely schedule and start and finish cases on time. Many people build their schedule around that of the court and the court should consider their time valuable as well.

Basically, a judge should always be cognizant of the possible impact of his decisions, words and actions and possibly act as if he is on some camera and speaking into some microphone that broadcast his every act and word to the world. I do not believe this would be easy to do, and I doubt there is any imperfect human being who would be completely successful but it would be a worthy goal.

A litigant's perception of the judge and how they perceive he treats them is probably the thing the public most takes away from their court appearance and their faith in the judicial system is greatly based upon their impression of the judge.

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

A judge must conduct himself or herself as a judge twenty-four hours a day, every day. The public and the bar call the judge a judge twenty-four hours a day and they see a judge as a judge twenty-four hours a day. If elected, I would try to conduct myself as I think a judge should act at all times.

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

A judge needs to try to avoid expressing anger. It is a human emotion and a judge is not immune to having human emotions, but a judge should train himself or herself to recognize the emotion when it appears and control his or her responses. A judge is to be impartial, and anger implies some personal stake in the dispute that the judge should not have. There is no need for a judge to become angry with any person who appears before him or her. A judge must be firm and decisive and willing support his or her rulings, plus a judge must be a strong enough personality to control the courtroom. Anger would not be helpful and indeed would be counter-productive and lead the judge to make errors that would not otherwise be made, and it would lessen the respect given to the judiciary.

28. How much money have you spent on your campaign? If the amount is over \$100, has that been reported to the House and Senate Ethics Committees?
I have spent about \$75.00 to \$80.00 on postage to use in this matter. I have made no other expenditures.
29. If you are a sitting judge, have you used judicial letterhead or the services of your staff while campaigning for this office?
I have not used any judicial letterhead or any of the judicial staff assigned to me in this campaign.
30. Have you sought or received the pledge of any legislator prior to this date?
No.
31. Have you sought or been offered a conditional pledge of support by any legislator pending the outcome of your screening?
No.
32. 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.
33. Have you contacted any members of the Judicial Merit Selection Commission?
No.
34. 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/Michael Don Stokes

Sworn to before me this 25th day of September, 2008.

Notary Public for South Carolina

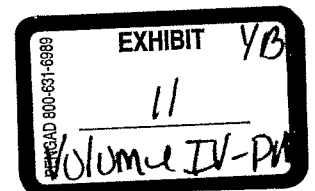
My commission expires: 3/3/2009

**JUDICIAL MERIT SELECTION COMMISSION
PERSONAL DATA QUESTIONNAIRE**

Court, Position, and Seat # for which you are applying: Horry County Master in Equity

1. NAME: Ms. Cynthia Graham Howe
BUSINESS ADDRESS: BATTLE, VAUGHT & HOWE, P.A.
P.O. Box 530
Conway, South Carolina 29528
BUSINESS TELEPHONE: (843) 248 4321

2. Date of Birth: 1952
Place of Birth: Burlington, North Carolina
3. Are you a citizen of South Carolina? Yes.
Have you been a resident of this state for at least the immediate past five years? Yes.
5. Family Status: Married on August 6, 1983, to Joseph Leroy (Lee) Howe, Jr. Divorced on August 6, 1976 - Cynthia Jeanne Graham Cheek - Jackson Co., NC, and 1 year's separation. 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) University of North Carolina at Chapel Hill, 1970 - 1971 (transferred to Western Carolina University);
 - (b) Western Carolina University, B.S. Ed, summa cum laude, 1971 -1974;
 - (c) Western Carolina University, M.A. Ed, 1974 - 1976;
 - (d) University of South Carolina, School of Law, J.D., 1978 - 1981.
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, 1981.
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) University of North Carolina: Dean's List, 1970 - 1971; Civitan Scholarship, 1970 - 1971;
 - (b) Western Carolina University: Patrons of Quality Scholar, 1974; Most Outstanding Female Education Major, 1974; Phi Kappa Phi National Honor Society; Phi Delta Kappa Professional Education Honor Society; National Teacher Corps, 1974 - 1976;



(c) University of South Carolina: Moot Court Board, Sec/Treas; AmJur Award, Damages; Phi Alpha Delta Legal Fraternity; Recipient of Strom Thurmond Scholarship, 1980 – 1981, Chief Advocate for Student Government, 1981, Wig and Robe Honor Society, 1981.

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</u>
(a)	Tips from the Bench VI	2/15/08;
(b)	Winning Before Trial	01/11/08;
(c)	SC ADR Seminar	2/23/07;
(d)	The Ladder to Success	10/13/06;
(e)	Packing Your Parachute	11/13/06;
(f)	Ethics 2005 Seminar	9/21/05;
(g)	4 th Annual Federal Practice	9/9/05;
(h)	Asset Protection Teleconf .	6/14/05;
(i)	Musante's Killer Expert Depo	4/1/05;
(j)	Revised Lawyer's Oath CLE	10/14/04;
(k)	12 th Annual Bench/Bar	9/17/04;
(l)	3 rd Annual Federal Practice	9/10/04;
(m)	Police Liability	8/24/04;
(n)	SC Women Lawyers Seminar	4/30/04;
(o)	Federal Practice in the Dist Ct.	9/5/03;
(p)	Women Lawyers in New Millinn	4/11/03.

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

(a) I spoke on the potential conflicts of interest which may arise in representing police officers as well as their employers at the SC Municipal Attorneys Association seminar in December 2003 in Columbia, SC.;

(b) I speak on legal issues to each recruiting class of the Myrtle Beach Police Department during Pre-Service Legal Training. This occurs usually three to four times each year.

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, November 9, 1981;

(b) U.S. District Court, S.C., July 5, 1983;

(c) Fourth Circuit Court of Appeals, August 31, 1990;

(d) United States Supreme Court, April 19, 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.
- (a) 8/81 - 8/83: Law clerk to the Honorable David W. Harwell, then Associate Justice, S.C. Supreme Court;
 - (b) 8/83 – 11/06: Associate then partner with Van Osdell, Lester, Howe & Lester or one of its predecessors in interest);
Civil litigation and appeals:
 - (i) Van Osdell, Lester, Stewart & McCutchen, PA;
 - (ii) Van Osdell, Lester, Stewart, McCutchen & Brittain, PA;
 - (iii) Van Osdell, Lester, Stewart, McCutchen, Hearn, Brittain & Martin;
 - (iv) Van Osdell, Lester & Howe, PA;
 - (v) Van Osdell, Lester, Howe & Jordan, PA;
 - (vi) Van Osdell, Lester, Howe & Lester, PA;
 - (c) 11/06 – present: "Of counsel" for the first few months with Battle & Vaught, PA; now partner with Battle, Vaught & Howe, PA, Civil litigation and appeals.
15. What is your rating in Martindale-Hubbell? "AV".

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

16. What was the frequency of your court appearances during the last five years?
- (a) federal: 50;
 - (b) state: 50.
17. What percentage of your practice involved civil, criminal, and domestic matters during the last five years?
- (a) civil: 99%;
 - (b) criminal: ;
 - (c) domestic: 1% (appointments).
18. What percentage of your practice in trial court during the last five years involved matters that went to a jury?
- (a) jury: 10;
 - (b) non-jury: 90.
- Did you most often serve as sole counsel, chief counsel, or associate counsel in these matters?
- In the jury matters, I served as associate counsel. In the non-jury matters, I served as sole counsel or chief counsel.
19. List five of the most significant litigated matters that you have personally handled in either trial or appellate court or before a state or federal agency. Give citations if the cases were reported and describe why these matters were significant.

- (a) Roxane Roberts v. P.A. Himelrigh, individually & as a law enforcement officer of the Myrtle Beach Police Department & City of Myrtle Beach, 01-CP-26-2696

This case was significant because I believed strongly that Officer Himelrigh, a young, female police officer, had been wrongfully accused of using excessive force against the plaintiff. By the time the case was tried, Ms. Himelrigh had been accepted to and was attending law school out of state. My partner and I tried the case successfully to a jury.;

- (b) Collins Music Co., Inc. vs. IGT a/k/a – North America, 353 S.C. 559, 579 S.E. 524 (Ct. App. 2002); 365 S.C. 544, 619 S.E.2d 1 (Ct. App. 2005)

This case was significant for several reasons. We filed it on behalf of the Plaintiff in November 1994, but the case took on a life of its own, involving several appeals. It even included an appeal to the U.S. Supreme Court, as well as a collateral case in Reno, Nevada. The case was tried to a jury over several days and involved numerous contract issues, but the merits of the case seemed to take a backseat to the technical issues involved in moving for reconsideration and timely appeals.;

- (c) Lorrie Kimsey v. City of Myrtle Beach, 109 F.3d 194 (4th Cir. 1997)

This case was significant because I moved for summary judgment in federal court on both the Recreational Use statute and several exceptions to the Tort Claims Act. Summary judgment was granted, and the plaintiff thereafter appealed. The Fourth Circuit affirmed.;

- (d) Brown v. City of Myrtle Beach, 278 F.3d 362 (4th Cir. 2001)

I represented the City and two of its police officers in a federal civil rights lawsuit. I moved for summary judgment on the grounds of the police officers' qualified immunity. The trial judge denied the summary judgment motion on the eve of trial, and the City instructed me to appeal the ruling immediately. Immediate appeals of denials of summary judgment motions on grounds of qualified immunity are allowed if the trial court's order is based on purely legal grounds. The 4th Circuit heard oral arguments and reversed the trial court's denial, holding that the two police officers were entitled to qualified immunity.;

- (e) D.G. Restaurant Corp. v. City of Myrtle Beach, 953 F.2d 140 (4th Cir. 1991)

I represented the City in a zoning case in which a topless dancing bar challenged the City's zoning ordinance that allowed adult entertainment in only certain areas of the City. The trial judge granted an injunction against the City's enforcement of the ordinance, holding that it was unconstitutional. The 4th Circuit reversed the trial court in a written opinion, holding that the City's zoning ordinance is constitutional.

20. List up to five civil appeals that you have personally handled. Give the case name, the court, the date of decision, and the citation if the case was reported.
- (a) Hall's Reclamation, Inc. v. APAC-Carolina, Inc., 103 F.3d 117 (4th Cir. 1996) unpublished;
 - (b) Housand v. Housand, 333 S.C. 397, 509 S.E.2d 827 (Ct.App. 1998);
 - (c) Bugsy's, Inc., et al. v. The City of Myrtle Beach, 340 S.C. 87, 530 S.E.2d 890 (S.C. 2000);
 - (d) NAACP, et al. v. City of Myrtle Beach, 4:03 cv 1732, 05-1517 (appeal dismissed upon settlement);
 - (e) Chris Holloman v. City of Myrtle Beach, 2007 WL 627062 (4th Cir. 2007).
21. List up to five criminal appeals that you have personally handled. Give the case name, the court, the date of decision and the citation if the case was reported. Please attach one copy of briefs filed by you in each matter. None.
22. Have you ever held judicial office? No.
23. If the answer to question 22 is yes, describe or list five of your most significant orders or opinions and give the citations if they were reported. Also list citations to any appellate review of these orders or opinions.
24. Have you ever held public office other than judicial office? If so, list the periods of your service, the office or offices involved, and whether you were elected or appointed. Also, state whether or not you have timely filed your report with the State Ethics Commission during the period you held public office. If not, were you ever subject to a penalty? No.
25. List all employment you had while serving as a judge (whether full-time or part-time, contractual or at will, consulting or otherwise) other than elected judicial office. Specify your dates of employment, employer, major job responsibilities, and supervisor. Not applicable.
26. Have you ever been an unsuccessful candidate for elective, judicial, or other public office? No.
27. Have you ever been engaged in any occupation, business, or profession other than the practice of law, teaching of law, or holding judicial or other public office?
- (a) 1968 - 1972 Belk's part-time while in high school and college;
 - (b) 1972 - 1974 - Western Carolina University, School of Education, part-time, Typist while in college;
 - (c) 1974 - 1976 - Teacher, 5th and 6th grades, Fairview Elem School, Sylva, NC (National Teacher Corps Project);
 - (d) Summer 1976 - Western Carolina University, Cullowhee, NC, Instructor of Freshman English/Reading (incoming college freshmen with low Verbal scores on SAT);
 - (e) 1976 - 1978 - Teacher, Loris High School, Loris, SC (Reading/English);
 - (f) 1977 - 1978 - Reading Coordinator for Secondary Schools, Horry County, part-time position.

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?
 In 1997, my husband and I sued to obtain the return of our earnest money in a failed real estate deal in which we were the purchasers. The seller was unable to provide a clear CL-100 (termite letter) so that we were unable to obtain conventional financing, a term of the real estate contract. The seller refused to allow the realtor to return our earnest money deposition. When we sued for breach of contract, the seller counter-claimed to force us to purchase the house. We were granted summary judgment, and the seller's counterclaim was dismissed.
Joseph L. Howe, Jr. & Cynthia Graham Howe v. Tina M. Kotsovos & Nancy Davis d/b/a Seaside Realty Company, 97-CP-26-1707.
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.
\$4.62 - I have sent a letter of introduction to the eleven Horry County delegation members. (11 times \$.42 = \$ 4.62).
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, I have not requested any friends or colleagues to contact members of the General Assembly on my behalf. I have made my friends and colleagues aware of my candidacy for the Horry County Master in Equity seat and have told them that it is improper to seek commitments from the local delegation members before the Judicial Screening Commission allows it.
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) Horry County Bar Association, Pres (1993), VP (1992), Sec (1991);
(b) SC Bar Association;
(c) Federal Bar Association;
(d) SC Women's Law 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) Member, First Presbyterian Church;

- (b) Myrtle Beach Woman's Club, Membership Coordinator, Ways & Means Chair;
 - (c) Ocean View Memorial Foundation Board, member 2002-2006;
 - (d) Commission on Lawyer Conduct, 2003 – present.
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 learned a lot about what type of judge I would like to be from teaching school, first teaching 5th and 6th grades and then high school. I believe that in some respects, a classroom is a "mini" courtroom. If I can explain an issue to a class of 5th and 6th graders or high school seniors and hold their attention, then I most likely can get my point across to the general public in a court room without boring them to tears.
- Additionally, I clerked for The Honorable David W. Harwell early in my legal career. I was impressed by Judge Harwell's intelligence and approachable demeanor. Judge Harwell showed by example that a good sense of humor had a place in judicial temperament. I hope that I can emulate him to a great extent.
49. References:
- (a) Ms. Rita Collins
Banking Officer
Wachovia Corporation
7102 North Kings Highway
Myrtle Beach, SC 29572
 - (b) Reverend Dr. Robert Wilkes
First Presbyterian Church
P.O. Box 1306
Myrtle Beach, SC 29578-1306
 - (c) The Honorable David W. Harwell
Nelson, Mullins, Riley & Scarborough, LLP
P.O. Box 3939
Myrtle Beach, SC 29578
 - (d) Henrietta U. Golding, Esquire
McNair Law Firm
P.O. Box 336
Myrtle Beach, SC 29578
 - (e) William Alford, President
A & I Corporation
1004 8th Avenue N. Extension
Myrtle Beach, SC 29577
 - (f) Sharlene Zwing
Past president

Myrtle Beach Woman's Club
Myrtle Beach, SC 29577

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/ Cynthia Graham Howe

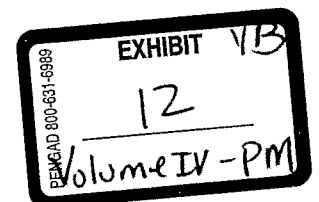
Date: 09/21/08

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

Master-in-Equity
(New Candidate)

Full Name: Cynthia Graham Howe
Business Address: BATTLE, VAUGHT & HOWE, P.A.
P.O. Box 530, 1200 Main Street
Conway, SC 29528 (29526)
Business Telephone: 843-248-4321

1. Do you plan to serve your full term if appointed? Yes. If appointed, my present plans would be to continue as Master in Equity for the full term.
2. If appointed, do you have any plans to return to private practice one day? No.
3. Have you met the Constitutional requirements for this position regarding age, residence, and years of practice? Yes
4. What is your philosophy regarding *ex parte* communications? Are there circumstances under which you could envision *ex parte* communications being tolerated? In general, I don't believe in *ex parte* communications. However, under certain circumstances, such as for scheduling purposes or administrative purposes, *ex parte* communications may be acceptable so long as no party is prejudiced, and all other parties are notified as soon as possible concerning the substance of the communication. Moreover, in certain emergency situations, such as a Rule 65 Temporary Restraining Order or a Writ of Supersedeas, *ex parte* communications are acceptable under the Canons of Judicial Conduct.
5. What is your philosophy on recusal, especially in situations in which lawyer-legislators, former associates, or law partners are to appear before you?
I believe that for some reasonable amount of time after election, a year to five years perhaps, my former law partners and associates should not appear before me, and accordingly, I would recuse myself from their cases. As to lawyer-legislators' appearances, I do not believe that recusal is warranted in that instance.
6. If you disclosed something that had the appearance of bias, but you believed it would not actually prejudice your impartiality, what deference would you give a party that requested your recusal? Would you grant such a motion? Yes, to avoid even the appearance of impropriety, I most likely would grant the party's motion for recusal in such an instance.
7. What standards have you set for yourself regarding the acceptance of gifts or social hospitality?



I would not accept gifts or social hospitality from litigants/attorneys who are appearing before me, have just appeared before me, or are about to appear before me. Otherwise, acceptance of such gifts or social hospitality may be construed as a *quid pro quo*.

However, I believe it would be appropriate to accept gifts and social hospitality from relatives and friends for special occasions, even lawyer-friends, who are not appearing before me.

8. How would you handle a situation in which you became aware of misconduct of a lawyer or of a fellow judge?
I would inform the appropriate authority (in the case of the lawyer, the Commission on Lawyer Conduct, and in the case of the fellow judge, the Commission on Judicial Conduct).
9. Are you affiliated with any political parties, boards or commissions that would need to be evaluated if you are appointed?
No.
10. Have you engaged in any fund-raising activities with any political, social, community, or religious organizations?
Yes. I presently belong to the Myrtle Beach Woman's Club, a non-profit, charitable organization committed to promoting volunteerism. We hold fund-raising activities and then donate those funds as needed to the Horry County community. (I have read and understand Sections 4C(b)(i) and (iv) and would abide by those sections if appointed.)
11. If appointed, how would you handle the drafting of orders?
I would use a combination of drafting my own orders, simultaneously asking the various attorneys to submit proposed orders and then choosing portions from those proposed orders to prepare my own, or, if the submitted, proposed orders were well-written, I may choose from among those submitted orders.
12. If appointed, what method would you use to ensure that you and your staff meet deadlines?
I would use an extension of the same system that I presently employ – a strict calendaring of all deadlines with a coordination of my calendar and my staff's calendar.
13. What is your philosophy on "judicial activism," and what effect should judges have in setting or promoting public policy?
I believe that judges, especially trial judges, should follow precedent established by our appellate judges. My philosophy, therefore, is that trial judges should not play an "active" role, but rather, should follow the law as it has been established.
14. 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 asked, I would participate as a speaker or panel member in legal seminars or panels. In the past, I have volunteered in the school system whenever possible and would hope to continue in that role. I would continue my voluntary memberships in the ABA, SC Bars, Horry County Bar, and SC Women's Law Association.
15. Do you feel that the pressure of serving as a judge will strain personal relationships (i.e. spouse, children, friends, or relatives)? How would you plan to address this?
No, I don't believe that serving as a judge would strain my personal relationships any more than serving as an attorney on delicate matters already has. During the last 25 years, I have learned to juggle my family and my career, and although it has not always been easy, it certainly has been worthwhile. I believe that my family and my career have benefitted from the other. My family fully supports me in this endeavor.
16. Are you involved in any active investments from which you derive additional income that might impair your appearance of impartiality? No.
17. Would you hear a case where you or a member of your family held a *de minimis* financial interest in a party involved?
This would depend on the individual case. According to the Judicial Code, a *de minimis* financial interest means an insignificant interest that could not raise reasonable questions regarding a judge's impartiality. Accordingly, I most likely would have no concerns hearing a case where I or a member of my family held a *de minimis* financial interest in a party involved unless one of the parties objected.
18. Do you belong to any organizations that discriminate based on race, religion, or gender?
I belong to the Myrtle Beach Woman's Club, which presently is composed of only women members. Technically, I suppose that could be considered discrimination based on gender. However, the Myrtle Beach Woman's Club is a charitable organization, and it does not practice *invidious* discrimination. It does not exclude any persons as inferior; it does not consider anyone unworthy of membership. Quite the contrary, the Myrtle Beach Woman's Club is composed of the most charitable and gracious women I know.
19. Have you met the mandatory minimum hours requirement for continuing legal education courses? Yes.
20. What do you feel is the appropriate demeanor for a judge?
I feel that a judge should be honest, humble, compassionate, patient, courteous, open-minded, deliberate, professional, trustworthy, and dignified. A subtle and well-rounded sense of humor probably would keep a judge sane.

21. 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?
A South Carolina judge represents the judiciary regardless of whether she is sitting on the bench, in chambers, or in her everyday life. She always must be mindful of that, and accordingly, her demeanor must reflect the respect she commands on an ever-present basis. These rules apply 24/7.
22. Do you feel that it is ever appropriate to be angry with a member of the public appearing before you? Is anger ever appropriate in dealing with attorneys or a pro se litigant?
No, I don't think it is ever appropriate to display anger with members of the public appearing before the Court, regardless of whether they are attorneys or litigants (pro se or represented).
23. How much money have you spent on your campaign? If the amount is over \$100, has that been reported to the House and Senate Ethics Committees?
\$4.62 (That was spent on postage to send a letter of introduction to the 11 members of our local delegation.)
24. If you are a sitting judge, have you used judicial letterhead or the services of your staff while campaigning for this office? (Not applicable.)
25. Have you sought or received the pledge of any legislator prior to this date?
No.
26. Have you sought or been offered a conditional pledge of support by any legislator pending the outcome of your screening? No.
27. 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, I have not asked any third parties to contact members of the General Assembly on my behalf before the final and formal screening report has been released. I have made my friends and colleagues aware of my candidacy but have made sure that they know that no one may seek commitments until the 48 hour period ends after this Commission grants such permission.
28. Have you contacted any members of the Judicial Merit Selection Commission? No.
29. 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/Cynthia Graham Howe

Sworn to before me this 22nd day of September 2008.

Notary Public for S.C.

My Commission Expires: 2/2/2011

From: JANE SHULER
To: SHARON SCHOLL
Date: 11/16/2008 10:48 AM
Subject: Fwd: Cindy Graham Howe, Candidate for Horry County Master in Equity
Attachments: DOC076.PDF

For the notebook at hearing; copy for her brown folder file too by Laurie's desk.

Thanks,

Jane

>>> "Cindy Howe" <cghowe@sccoast.net> 11/6/2008 12:29 PM >>>

Dear Jane:

Thank you so much for your calming demeanor yesterday morning. It was exactly what I needed after the stress of the test!

I've attached a self-explanatory letter concerning my meeting with Carolyn Taylor-Cracraft of the Judicial Department, Finance Division concerning my travel reimbursement for serving on the Commission on Lawyer Conduct during the last few years.

I am mailing you the original.

With warmest regards, I am

Very truly yours,

Cindy

Cynthia Graham Howe
BATTLE, VAUGHT & HOWE, P.A.
1200 Main Street
P.O. Box530
Conway, SC 29528
843-248-4321
cghowe@sccoast.net

BATTLE, VAUGHT & HOWE P.A.

ATTORNEYS AND COUNSELORS AT LAW

1200 MAIN STREET

POST OFFICE BOX 530

CONWAY, SOUTH CAROLINA 29528

TELEPHONE (843) 248-4321

FACSIMILE (843) 248-4512

www.battlevaught.com

MICHAEL W. BATTLE
E-Mail Address: mbattle@sccoast.net
VICTORIA T. VAUGHT
E-Mail Address: vvaught@sccoast.net

CYNTHIA GRAHAM HOWE, PA
E-Mail Address: cghowe@sccoast.net
JAMES R. BATTLE, II
E-Mail Address: jbattle@sccoast.net

November 6, 2008

Jane O. Shuler, Esquire
Chief Counsel, Judicial Merit Selection Commission
102 Gressette Building
P.O. Box 142
Columbia, SC 29202

Re: Cynthia Graham Howe, Candidate for Horry County Master in Equity

Dear Jane:

After we spoke yesterday morning, I met with Carolyn Taylor-Cracraft, Finance Manager for the South Carolina Judicial Department. She again researched all payments to me from the State of South Carolina.

Her original information was correct. I have enclosed a copy of the Voucher Inquiry, as well as Ms. Taylor-Cracraft's September 22, 2008, e-mail to me, showing that I received no reimbursement for travel expenses for the year 2007. My total reimbursement expenses for serving as a member of the Commission on Lawyer Conduct were \$706.42 as follows:

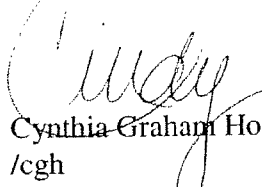
2/13/06	83.30
4/27/06	333.89
2/22/08	196.38
6/20/08	<u>92.85</u>
TOTAL	706.42

Thank you so much for your assistance in my application process.

With warm regards, I am

Very truly yours,

BATTLE, VAUGHT & HOWE, P.A.


Cynthia Graham Howe
/cgh
Enclosures

11-05-08 (CARO)

Voucher Inquiry

FY Number	Date	Type	Amount	Reference	PO Num	Completed	Check Num
06	02-07-06	TIX	83.30	1/20/06		02-13-06 P	127299558
06	04-18-06	TIX	333.89	3/17/06		04-27-06 P	127490235
08	02-13-08	TIX	196.38	1/18/08		02-22-08 P	129144085
08	06-10-08	TIX	92.85	5/16/08		06-20-08 P	129458530

CYNTHIA GRAHAM HOWE

Fiscal Yr. 06 Number.

Pm Lulu
 35
 140
 70
 35

M. Luce
 4830
 19389
 12638
 5735

.....

Cindy Howe

From: Taylor, Carolyn [CTaylor@sccourts.org]
Sent: Monday, September 22, 2008 2:07 PM
To: 'cghowe@sccoast.net'
Subject: travel reimbursement

Cindy,

These are all of the payments showing in our records for travel reimbursements to you.

2/13/06	83.30
4/27/06	333.89
2/22/08	196.38
6/20/08	<u>92.85</u>
	706.42

If you need anything further just let me know.

Carolyn Taylor-Cracraft
Finance Manager
SC Judicial Department
1015 Sumter St. Suite 101
Columbia, SC 29201
803-734-1970

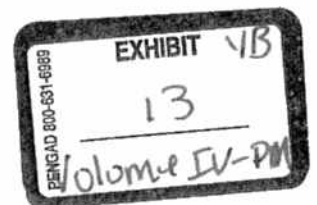
9/22/2008

**JUDICIAL MERIT SELECTION COMMISSION
PERSONAL DATA QUESTIONNAIRE**

Court, Position, and Seat # for which you are applying: Master-In-Equity for the Fifteenth Circuit (Horry County)

1. NAME: Mr. Carroll D. Padgett, Jr.
BUSINESS ADDRESS: 3535 Meeting Street
PO Box 792
Loris, SC 29569
BUSINESS NUMBER: (843) 756-2186

2. Date of Birth: 1947
Place of Birth: Columbus, Georgia
3. Are you a citizen of South Carolina? Yes.
Have you been a resident of this state for at least the immediate past five years? Yes.
5. Family Status: Married on December 29, 1973, to Sandra Lemly Padgett.
Never divorced. One child.
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) College: University of Georgia
Dates: 1965-1969
Degree: Bachelor of Arts;
 - (b) College: University of South Carolina School of Law
Dates: 1969-1972
Degree: Law Degree – 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 – Admitted: 1972.
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) University of Georgia Activity
Member of Phi Kappa Tau Fraternity– Dates: 1966-1969;
 - (b) University of South Carolina School of Law Activity
Member of Clariosophic Society- Legal Aid Clinic.



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) Family Court Bench/Bar	12/07/2007;
(b) Fall Seminar 2007-Underwriting Update	11/05/2007;
(c) Family Court-Procedural	10/11/2007;
(d) Social Security Disability Law: A	09/07/2007;
(e) Strategies in Handling DWI and DUI	08/14/2007;
(f) Local Government Attorneys'	12/08/2006;
(g) 2006 SC Ultimate Trial Notebook	11/17/2006;
(h) South Carolina Tort Law Update	10/27/2006;
(i) Mandatory ADR Training	09/08/2006;
(j) South Carolina Real Estate Title	10/10/2005;
(k) Attorney ECF Training	06/22/2005;
(l) Handling DUI Cases in the Now	04/15/2005;
(m) Revised Lawyer's Oath	10/26/2004;
(n) SC Family Law Practice	09/02/2004;
(o) Medicaid & Medicaid Planning	08/25/2004;
(p) Family Court	12/09/2003;
(q) Solving Water Intrusion and Mold	06/03/2003;
(r) Family Court – Procedure & Substantive Law	12/11/2002;
(s) SC Like Kind Real Estate	09/25/2002;
(t) Hot Tips from the Best Domestic	09/20/2002.

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

Speaker at Local Bar Continuing Education Program Family Court – Horry County – Several Subjects – Wiretapping – Professionalism & Courtesy.

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) All South Carolina State Courts – Admitted: 09/30/72;
- (b) Federal District Court – Admitted: 02/09/73;
- (c) Fourth Circuit Court of Appeals – Admitted: 09/12/74;
- (d) United States Supreme Court – Admitted: 11/26/84.
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.
- After graduating from law school in May 1972, I started clerking for a lawyer in Loris, SC in August 1972. On September 30, 1972, I took an associates

position with John L. Reaves, a private practitioner in Loris, SC. This was a rural general practice with real estate, domestic, collections, automobile accidents, and civil trial practice. In February of 1975, I opened my own practice of law in Loris, SC. My practice was a general criminal and civil practice. I maintained that practice until Solicitor Jim Dunn asked me to become an Assistant Solicitor for him in the Fifteenth Circuit, Horry and Georgetown Counties. I took that position in September 1978. I remained Assistant Solicitor until June 1980 when I returned to a sole private practice in Loris, SC. In approximately 1983, I incorporated my practice which is now known as Carroll D. Padgett, Jr. P.A., Attorney and Counsellor At Law. I have had a general practice throughout my almost thirty-six (36) year career. It has focused on real estate, corporations, domestic and family law issues, torts, collections, probate, civil and criminal trial matters.

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.

I normally appear before the Master 10-20 times a year. During my almost thirty-six (36) years of practicing law, I have had many, hundreds, of cases to be referred and tried before the Honorable Winston W. Vaught, Honorable Ralph Hoffman, Honorable John L. Breeden and the Honorable James Stanton Cross. These cases have varied from matters sent to the Master by the Circuit Court to resolve issues of liability, damages and equitable matters. In addition, issues of judgment enforcement and supplemental proceedings have been tried before the Master. I have also tried issues of proper zoning and use of real estate. However, most of the cases I have tried before the Master-In-Equity have dealt with real estate issues, including mortgages, foreclosures, partitions, all issues involving quieting of title to real property, boundary line disputes and easement issues.

Within the past five years I have handled the following cases of interest:

- (a) Gregg v. Pearly aka Pearlie Holland, et al, File # 07-CP-26-6572
Issues involved- Quiet Title (determine ownership – heirs to property) and Partition and Sale of Real Estate. The owner died in 1971 and no division or separation of property had been made voluntarily or otherwise. Owner of property left a life estate to wife, who died in 1976 without a will, and to 8 grandchildren all of whom were now deceased (except one) or in jail. None of the deceased grandchildren left wills and many whereabouts unknown. The 2 heirs in jail each had to have a GAL appointed to represent their interest in the action. Publication had to be done to ensure proper service on all unknown heirs, those claiming under or through an heir, as well as any minor or other person who might suffer some legal disability. It came to light that a neighbor land owner claimed an interest in a portion of the

property by way or use of their property and maps prepared but never recorded of record. Property recently sold at public auction.

- (b) Bank Foreclosure Case – Horry County State Bank v. Park-Ray Landscaping, Inc., Michael Ray, et al. File # 2003-CP-26-5799.

The defendants failed to pay the note and mortgage and the bank brought a foreclosure action. The defendants raised numerous defenses concerning proper credits for payments, violations of Reg. O and Truth-In-Lending issues. Michael Ray, a principle and one of the defendants, before the foreclosure, had gone to jail for perpetrating fraud on Horry County. The defendant, Ray, had fraudulently purchased at a Master's sale the very piece of property the Bank was foreclosing on. Defendant, Ray, had used a personally created certified check to pay the Master-In-Equity for the Horry County property purchase. Because the check was such a good forgery, it was not discovered until later after the Master had paid the 1st lien holder – BB&T – to satisfy its 1st Mortgage and after the defendant, Ray, had secured funds from HCSB to pay the balance of the purchase which gave HCSB (Horry County State Bank) a valid 1st lien. This case has been tried and is now on appeal. Issues are does a Lis Pendens terminate without the filing of a Summons & Complaint after the time for filing has expired (i.e. the statute of limitations expires? Who bears the burden of loss? Are there equitable issues which would allow Horry County, who lost the fraudulent check money, to recoup it from HCSB? HCSB had secured title insurance to protect its mortgage. Does the title insurance company have to reimburse Horry County for its loss?

- (c) A civil case designated Turner & Sherman v. Johnson, et al, File # 02-CP-26-2701

Dealt with a small vacant house that a man had been living in owned by the defendant, Johnson. It caught fire and the Plaintiffs were severely burned. At the time of fire the owner was very ill and unable to participate in the trial or discovery. There was no written lease or rental agreement. The fire started when the Plaintiffs got drunk and laid some clothes next to or on top of a space heater in the room where they slept. Plaintiff's sought millions in damages. There was no liability insurance. Issues: Did the owner of the property even know and/or give permission for the Plaintiff's to be on the property? Was there a working fire detector in the home? Was the cause of the fire being the space heater the result of the Plaintiff's negligence and therefore contributed to injuries? Were the Plaintiff's contributively negligent by being drunk which caused their injuries to be more severe? The case was tried and later settled.

- (d) In case of Cook v. Kay, File # 03-CP-26-6624

S.C. Court of Appeals unpublished opinion # 2005-UP-507, brother and sister had each been given by their father, a deed prepared by a non

lawyer for portions of a larger tract of land. The Plaintiff, Cook, lived and farmed the land before and after the deeds were done and until their father's death. The defendant sister, Kay, lived up North and seldom saw or came back to South Carolina and had been gone for many years. The issues presented: Was the property description set forth in the deed unambiguous? Or, if not, was there a need for extrinsic evidence to establish and determine the exact location of the boundary line between plaintiff and defendant's property. The second issue involved whether or not acreage set forth in the deed took preference over the metes and bounds description if any in the deed, so as to increase or decrease acreage on plaintiff's or defendant's part of the farm?

15. What is your rating in Martindale-Hubbell? BV.

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

16. What was the frequency of your court appearances during the last five years?
(a) federal: None;
(b) state: Several times a month on average with jury and non-jury appearances.

17. What percentage of your practice involved civil, criminal, and domestic matters during the last five years?
(a) civil: 25%;
(b) criminal: 10%;
(c) domestic: 35%;
(d) other matters: 30%.

18. What percentage of your practice in trial court during the last five years involved matters that went to a jury?
(a) jury: 10%;
(b) non-jury: 90%.

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

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

(a) Bambi Bennett v. Charlie Parker, Jr., File # 2005-CP-26-1082
In April of 2005 Bambi Bennett's mother and step-father were brutally murdered in their home. Mrs. Bennett and her boyfriend were arrested for the murders several days later. Mrs. Bennett was confined to J. Reuben Long Detention Center for 6 months. Mrs. Bennett had been married twice before and had 2 children by each of her 2 previous husbands. Both ex-husbands sought and got custody (which was previously with Mrs. Bennett) of their respective 2 children. I was

associated with other counsel in the criminal matter, and after 2 years successfully got the criminal charges dismissed for lack of evidence. As sole counsel, I filed papers to have both sets of children – 2 girls and 2 boys- returned to her. We were successful in getting rather quickly the 2 girls, ages 8 & 11. The 2 boys' father, unknown to us because we had been denied any access to the children, had given the custody of the children to Mrs. Bennett's half-brother who refused to allow the children to be returned to us. There were allegations the boys did not want to see their mother because she was the cause of the boys' grandparent's death. During this time, before charges were dismissed, no one could find a will of Mrs. Bennett's mother. Mrs. Bennett always said she and her mother though they often argued, loved each other. Also Mrs. Bennett had been left property by her dad, which she had given to her mom during one of her divorce proceedings to prevent any question or its marital character. During discovery the will was found and her mother left the property of Mrs. Bennett to her. However, the criminal charges were at that time still pending. If convicted, Mrs. Bennett could not inherit and her half-brother who had physical (no court ordered custody at that time) custody of the 2 boys would have inherited very valuable piece of land, near Highway #22 Bypass in Horry County. The case was tried for 2 days resulting in the immediate return of the 2 boys now (after 3 years) 17 & 15 to Mrs. Bennett. Significant to show how slowly the judicial process can be but also ultimately justice does prevail. Significant for criminal issues involved, inheritance issues, custody and fitness for custody of young and near majority minors.

- (b) Stevens, Stevens & Thomas, P.A. v. Morgan et al, 277 SC 150, 283 S.E2d 444

An attorney had agreed to perform legal work which resulted in a judgment on behalf of his client. Thereafter, the defendant debtor paid the judgment funds into Clerk of Court and plaintiff sought to collect his attorney's fee out of these funds pursuant to an Order and Rule to Show Cause served on his client, Morgan. Morgan objected and said he was entitled to a jury trial on the issues of entitlement of Stevens and attorney fee and the amount of attorney fees to which the plaintiff was entitled. The significance of the case is that the S.C. Supreme Court ruled that the issue of attorney's fee is one in equity and therefore Morgan was not entitled to a jury trial.

- (c) Stroud v. Elliott, 316 S.C. 242; 449 S.E.2d 261

This was an action to quiet title and for trespass and damages for cutting timber between two adjoining land owners. The case was tried and resulted in a verdict for actual and punitive damages. Case is significant in that the Supreme Court reversed a jury verdict and remanded the case for retrial. The Court ruled that since the plaintiff

sought actual and punitive damages and the evidence presented did not support the actual award (i.e. being substantially higher than damages presented) and since the punitive damages depend on the jury's view of the facts giving rise to liability, both should be remanded and tried again. The court noted that the trial judge (failed, even though requested) did not charge the statute which allowed a jury to award up to 3 times the fair market value of the cut timber, which if he had, might have justified the entire verdict.

- (d) Visual Graphics Leasing Corp v. Lucia, et al, 311 S.C. 484, 429 S.E.2d 839

This was a breach of business equipment lease. The plaintiff sought damages. The defendants had both entered criminal pleas of nolo contendere to voluntary manslaughter several years earlier. During cross-examination at trial the attorney for plaintiff was allowed to question both defendants about their nolo contendere pleas in the totally unrelated criminal trial, all over my objection. The significance of the case is that although the court agreed it was improper for the trial court to allow counsel to cross-examine the defendants concerning a nolo plea, the court nevertheless found it was harmless error and affirmed the verdict against the defendants. In this case credibility of the witnesses was extremely important because much of the case depended on parole evidence.

- (e) Beckham v. Sun News, 289 S.C. 28, 344 S.E.2d 603

Beckham was a former undercover police officer for Horry County. He was involved in significant sting- drug arrest. The newspaper slandered Beckham in its article implying and inferring illegal and inappropriate conduct. The jury returned one of the largest verdicts (over 4 million dollars) against a defendant in Horry County up until that time. The court reversed the case and sent it back for retrial because it ruled that the trial court had improperly instructed the jury that truth was a defense to the allegations of slander which the newspaper had the burden of proving. The court said this was confusing to the jury and the case reversed and remanded for a new trial.

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

- (a) Cook v. Kay; Unpublished Opinion # 2005-UP-507
Appeal from Master-In-Equity, Horry County - Decision filed 08/30/2005;
- (b) Marlowe v. Waccamaw Publishers, Inc. et al.; 82-CP-26-2391
Appeal from Horry County Circuit Court- Decision filed 1986;
- (c) Sarvis v. Register; 82-CP-26-1990
Appeal from Horry County Circuit Court- Decision filed 1986;
- (d) Hackler v. Wiegand; 85-CP-26-2864

- Appeal from Horry County Circuit Court- Decision filed 1987;
 (e) Beckham v. Sun News; 289 S.C. 28, 344 S.E.2d 603
 Appeal from Horry County Circuit Court- Decision filed 1986.
21. List up to five criminal appeals that you have personally handled. Give the case name, the court, the date of decision and the citation if the case was reported. Please attach one copy of briefs filed by you in each matter. None.
 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. No.
 23. If the answer to question 22 is yes, describe or list five of your most significant orders or opinions and give the citations if they were reported. N/A.
 24. Have you ever held public office other than judicial office? If so, list the periods of your service, the office or offices involved, and whether you were elected or appointed. Also, state whether or not you have timely filed your report with the State Ethics Commission during the period you held public office. If not, were you ever subject to a penalty? 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?
 In 2006, I ran for Probate Judge for Horry County against sitting incumbent.
 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? None.
 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.
 - (a) Title Insurance Agent for Security Title Company in conjunction with law practice. All income included in law practice return.;
 - (b) Member of Board of Directors of Horry County State Bank Financial Corp. and Horry County State Bank – 2 more years on Board.;
 - (c) Carroll D. Padgett, Jr., P.A. Attorney & Counselor At Law- sole stockholder and President of law firm.
 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.
 I am presently a member of the Board of Horry County State Bank Financial Corporation, (which is the parent company of Horry County State Bank) and Horry County State Bank. I would resign these positions if appointed.

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?
Worley v. Padgett, File # 03-CP-26-1393. An owner of a motel was sued by a lady injured on motel premises. Plaintiff faxed to me his pleadings while I was not in the office. Several days later he called and was told to take the pleadings to his premises liability insurance carrier and have them protect his interest and defend the law suit. The Insurance Company denied he was insured after default occurred. The case was later settled in conjunction with personal injury suit 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) Member of the American Bar Association;
 - (b) Member of the South Carolina Bar;
 - (c) Member of the Horry County Bar Association;
 - (d) Member of the Family Court Advisory Committee;
 - (e) Member of the American Trial Lawyers Association.
47. List all civic, charitable, educational, social, and fraternal organizations of which you are or have been a member during the past five years and include any offices held in such a group, any professional honors, awards, or other forms of recognition received and not listed elsewhere.
 - (a) I am a current member of the Loris First United Methodist Church where I am a Sunday School teacher of the adult-fellowship class. I have served as Finance Committee Chairman, Chairman of the Administrative Board, Chairman of Education and former member of Trustees.;
 - (b) Current Loris Gideon Camp U39078 member;
 - (c) Former member of Mental Health Association;
 - (d) Current Loris Civitan Club member;
 - (e) Current Loris Chamber of Commerce member;
 - (f) Former Board Member of Public Defender Corporation for Horry County;
 - (g) Former Board Member of Legal Services Agency;
 - (h) Current Attorney for City of Loris (25+ years);
 - (i) Current Attorney for Loris Community Hospital (25+ years);
 - (j) Current Board Member for Horry County State Bank & HCSB Financial Corporation;
 - (k) Former Chairman of the Board for Horry County State Bank.
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.

Throughout my career I have always felt that all people should be treated with the same respect, fairness and honor. I have and do feel that as a professional group we have a duty and responsibility to our profession and country. We should always represent the best our country has to offer. We should show the highest respect, competence, integrity, honor and fairness possible to each litigant and lawyer who appears before us. I have tried my best under the most trying times to always keep that in mind in dealing with clients, other members of the bar and the judiciary. This is a goal each member of our profession owes to each other and the system of justice. These qualities, I believe, are essential in being a successful and competent judge.

49. References:

- (a) James R. Clarkson, President and CEO
Horry County State Bank
Horry County State Bank Financial Corporation
1701 N. Oak Street
Myrtle Beach, SC 29577
843-839-9339;
- (b) James P. Stevens, Jr.
Attorney At Law
3341 Broad Street
PO Drawer 127
Loris, SC 29569-0127
843-756-7652;
- (c) Maria L. Elias-Williams
Attorney At Law
4210 Mills Circle
PO Box 34
Loris, SC 29569
843-756-8187;
- (d) John M. Leiter, P.A.
Attorney At Law
1203 48th Ave. N. Suite 109
Myrtle Beach, SC 29577
843-449-1451;

- (e) David E. Stoudenmire, Jr., Mayor
City of Loris
4101 Walnut Street
PO Box 548
Loris, SC 29569-0548
843-756-4004;
- (f) Phillip E. Thompson
Horry County Sheriff
Horry County Judicial Complex
1301 2nd Avenue
PO Box 380
Conway, SC 29528-0380
843-915-5450.

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/Carroll D. Padgett, Jr.

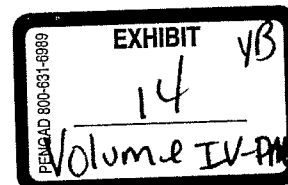
Date: 09/23/08

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

Master-in-Equity
(New Candidate)

Full Name: Carroll Dorn Padgett, Jr.
Business Address: 3535 Meeting Street
PO Box 792
Loris, SC 29569
Business Telephone: 843-756-2186

1. Do you plan to serve your full term if appointed? Yes
2. If appointed, do you have any plans to return to private practice one day? No
3. Have you met the Constitutional requirements for this position regarding age, residence, and years of practice? Yes
4. What is your philosophy regarding *ex parte* communications? Are there circumstances under which you could envision *ex parte* communications being tolerated? Ex parte communications are never appropriate. No
5. What is your philosophy on recusal, especially in situations in which lawyer-legislators, former associates, or law partners are to appear before you? There should be full disclosure to all parties. Also, if anyone, attorney or client, has the least reservation or if there is the slightest question, I will recuse myself. Recusal is always preferred to prevent even the hint of impropriety.
6. If you disclosed something that had the appearance of bias, but you believed it would not actually prejudice your impartiality, what deference would you give a party that requested your recusal? Would you grant such a motion? Impartiality is the most important factor to all parties involved in any litigation. Yes.
7. What standards have you set for yourself regarding the acceptance of gifts or social hospitality? The acceptance of gifts or social hospitality is totally inappropriate. None will be accepted unless it is a function to which all judges are invited, such as conferences, judicial education functions, etc.
8. How would you handle a situation in which you became aware of misconduct of a lawyer or of a fellow judge? It would be reported to the appropriate bar or judicial oversight agency or body.
9. Are you affiliated with any political parties, boards or commissions that would need to be evaluated if you are appointed? I am presently active as a Republican in Horry County, E. Loris precinct. However, such would end with my appointment.



10. Have you engaged in any fund-raising activities with any political, social, community, or religious organizations? Yes, Loris First United Methodist Church when needed for Church purposes. I am a Gideon. We raise money to purchase Bibles for distribution. Loris Civitan Club, on occasion, will raise money for different eleemosynary purposes.
11. If appointed, how would you handle the drafting of orders? I would prefer to issue ruling from the bench. Set forth the issues to be addressed and the ruling of the court. Then request the successful party to prepare an Order conforming to my ruling. Both parties would be present or each would receive a copy of my ruling. Give a reasonable time to prepare and present for signature. Occasionally, a matter will taken under review. Then a letter setting forth my ruling would be sent to the successful party's attorney with a copy to opposing counsel. Letter would request successful party's attorney to prepare an Order according to my ruling.
12. If appointed, what method would you use to ensure that you and your staff meet deadlines? Establish and/or maintain a tickler system to ensure Orders are received for signing and then filed. Prepare master roster of cases to be heard and check off as heard, successful party, date signed Order and date filed.
13. What is your philosophy on "judicial activism," and what effect should judges have in setting or promoting public policy? Our job is to apply the law as passed by the legislature. If challenged on constitutional grounds a determination must be made concerning the constitutionality of the law as it exists. Judges should not make law.
14. 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? Participate in forums on judicial issues, judicial conferences, conferences and courses on judicial education on the local, state and national levels.
15. Do you feel that the pressure of serving as a judge will strain personal relationships (i.e. spouse, children, friends, or relatives)? How would you plan to address this? No. I have been married almost 35 years (December 29, 2008). My wife retired in 2005 from the Loris Extended Care Facility as a registered nurse. My only child is a daughter who is married to a Minister in Mississippi. All are happy and extremely well adjusted. I anticipate no problems.
16. Are you involved in any active investments from which you derive additional income that might impair your appearance of impartiality?
No
17. Would you hear a case where you or a member of your family held a *de minimis* financial interest in a party involved? All parties would be

- informed and a full disclosure made. Then only if all parties agreed. Generally, I would not hear such a case.
18. Do you belong to any organizations that discriminate based on race, religion, or gender? No
 19. Have you met the mandatory minimum hours requirement for continuing legal education courses? Yes
 20. What do you feel is the appropriate demeanor for a judge? A Judge must be firm and professional but compassionate and respectful of all litigants and their counsel. All parties must be, and feel as though, they have been treated fairly and respectfully and had an opportunity to be heard.
 21. 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? These are golden rules of life. They should apply 24 hours a day, 7 days a week. Judges put their clothes on the same way ordinary people do and should never forget it.
 22. Do you feel that it is ever appropriate to be angry with a member of the public appearing before you? Is anger ever appropriate in dealing with attorneys or a pro se litigant? Anger is never an appropriate response to court or judicial proceedings. There are always better ways to make your point and be in control of the situation. It is ok to disagree without being disagreeable. Order must always be maintained but in a respectful and judicially acceptable manner. It is important that all litigants learn and see the system works and is fair to all people.
 23. How much money have you spent on your campaign? If the amount is over \$100, has that been reported to the House and Senate Ethics Committees? None
 24. If you are a sitting judge, have you used judicial letterhead or the services of your staff while campaigning for this office? N/A
 25. Have you sought or received the pledge of any legislator prior to this date? No
 26. Have you sought or been offered a conditional pledge of support by any legislator pending the outcome of your screening? No
 27. 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
 28. Have you contacted any members of the Judicial Merit Selection Commission? No
 29. 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/Carroll Dorn Padgett, Jr.

Sworn to before me this 23rd day of September, 2008.

Notary Public for S.C.

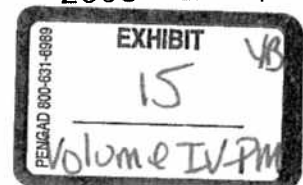
My Commission Expires: 4/2/2011

**JUDICIAL MERIT SELECTION COMMISSION
PERSONAL DATA QUESTIONNAIRE**

Court, Position, and Seat # for which you are applying: Fifteenth Circuit Master-in-Equity

1. NAME: Mr. Paul E. Rathbun
BUSINESS ADDRESS: 203 Laurel Street
Conway, SC 29526
BUSINESS NUMBER: (843) 248-1570

2. Date of Birth: 1948
Place of Birth: Coral Gables, Fl
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 August 15, 2004, to Paulette Carter Rathbun.
Divorced in Seminole County Florida, 1990, Sandra R Rathbun, and one year separation. Divorced in Horry County South Carolina, April 2002, Paul E. Rathbun, and one year separation. Two children.
6. Have you served in the military?
United States Army, May'67-Dec'69, E-5, Serial Number XXX-XX-XXXX.
Citizen with Honorable Discharge.
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) Michigan State University, 1970-1972, left to change majors;
 - (b) University of Illinois, 1972-1975, Bachelor of Landscape Architecture;
 - (c) Detroit College of Law, 1992-1995, JD.
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, no period where I was not in good standing.
9. List the significant activities in which you took part during your attendance at college, graduate, and law school. Give the dates you were involved in these activities and list any leadership positions you held.
I was not active in extracurricular activities.
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) Conference/CLE Name
Date(s)
2008 - 2009;



- | | | |
|-----|--|-----------|
| (b) | NLADA-Life in the Balance | 03/10/07; |
| (c) | SCPDA-Public Defender Conference | 09/24/07; |
| (d) | CCL-Capital Jury Selection | 10/12/07; |
| (e) | NLADA-Life in the Balance | 03/04/06; |
| (f) | CLO-Children's Law Conference | 10/12/06; |
| (g) | 20 th Annual Criminal Law Update | 01/21/05; |
| (h) | SCPDA Public Defender Conference | 09/26/05; |
| (i) | SCPDA Public Defender Conference | 09/27/04; |
| (j) | ABA-Juvenile Defender Leadership Conference | 10/22/04; |
| (k) | 5 th Annual Children's Law Conference | 05/15/03; |
| (l) | Representing the Accused | 10/23/03. |
11. Have you taught law-related courses or lectured at bar association conferences, educational institutions, or continuing legal or judicial education programs? No.
12. List all published books and articles you have written and give citations and the dates of publication for each. N/A.
13. List all courts in which you have been admitted to practice and list the dates of your admission. Give the same information for administrative bodies that require a special admission to practice.
Admitted to the South Carolina Bar November 1995.
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.
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.
I have not appeared in Equity.
15. What is your rating in Martindale-Hubbell? As a public defender for the majority of my career I have not seen the need to advertize.
- Retired judges/justices and judges/justices applying for reelection to their current position may omit Questions 16-21. If a candidate is seeking a judgeship different than his or her current position, Questions 16-21 should be answered based on experience prior to serving on the bench.**
16. What was the frequency of your court appearances during the last five years?
(a) federal: ;
(b) state: 100%.
17. What percentage of your practice involved civil, criminal, and domestic matters during the last five years?
(a) civil: ;
(b) criminal: 100%;
(c) domestic: .

18. What percentage of your practice in trial court during the last five years involved matters that went to a jury?
- (a) jury; ;
 - (b) non-jury: 100%, with the exception of one capital case.
- Did you most often serve as sole counsel, chief counsel, or associate counsel in these matters?
- Sole counsel, with the exception of one capital case where I was second chair.
19. List five of the most significant litigated matters that you have personally handled in either trial or appellate court or before a state or federal agency. Give citations if the cases were reported and describe why these matters were significant.
- (a) State v. Louis M. Winkler, Death Penalty;
 - (b) State v. Andre Lindsey, Identification issues;
 - (c) In the Interest of Joshua J., CSC w/ minor 1st; negotiated lesser w/ no sex offender registry;
 - (d) In the Interest of Dillon N., CSC w/ minor 1st; pre adjudicatory evaluation to remove from mandatory registration;
 - (e) In the Interest of James C., Murder.
20. List up to five civil appeals that you have personally handled. Give the case name, the court, the date of decision, and the citation if the case was reported. N/A.
21. List up to five criminal appeals that you have personally handled. Give the case name, the court, the date of decision and the citation if the case was reported. Please attach one copy of briefs filed by you in each matter. N/A.
22. Have you ever held judicial office? No.
23. If the answer to question 22 is yes, describe or list five of your most significant orders or opinions and give the citations if they were reported.
24. Have you ever held public office other than judicial office? If so, list the periods of your service, the office or offices involved, and whether you were elected or appointed. Also, state whether or not you have timely filed your report with the State Ethics Commission during the period you held public office. If not, were you ever subject to a penalty? No.
25. List all employment you had while serving as a judge (whether full-time or part-time, contractual or at will, consulting or otherwise) other than elected judicial office. Specify your dates of employment, employer, major job responsibilities, and supervisor. N/A.
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) Rathbun Landscape Firm, Apopka, FL, 1985 - -1991, owner/designer;
 - (b) Oyler Bros Landscape Co , Orlando FL, 1981 - 1985, purchasing/estimating;

- (c) Smallwod Landscape Co., Naples, FL, 19790-1980, operations manager;
- (d) Theodore Brickman Co., Longwood, IL, 1975 – 1979, purchasing.
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.
- In 1998 – 1999 I was a silent partner in Rathbun and Wright Landscaping, LLC, in 2002 I appeared and prevailed in Horry County's Master. Should Mr. Wright appear before me I would inform all parties and determine if Mr. Wright wanted me to recuse myself. If he did I would.
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. To my knowledge there are 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. To my knowledge there are 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.
Postage and envelopes, less than \$10.00.
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.
To my knowledge there are no such contributions.
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?
Only my letter of intent to the commission and an earlier letter inquiring about the procedures and timing.
46. List all bar associations and professional organizations of which you are a member and give the titles and dates of any offices you have held in such groups.
(a) South Carolina Bar;
(b) South Carolina Association of Criminal Defense Lawyers;
(c) National Legal Aid & Defender 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.
Board member/ advisor to Cross Heirs Outdoor Ministry
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.

49. References:

- (a) Boyd Gainey
Conway National Bank
1400 3rd Ave
Conway, SC 29568
843.248.5721;
- (b) Sheriff Phillip Thompson
Horry Co Courthouse
1301 2nd Ave
Conway, SC 29526
843.915.5450;
- (c) Ms. Orrie West
Chief Public Defender
P.O. Box 1666
Conway, SC 29528
843.248.1570;
- (d) John Thomas, Esq
107 Lewis Street
Conway, SC 29526
843.248.6277;
- (e) Ms. Barbara Pratt
403 Elm Street
Conway, SC 29526
843.488.4529.

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/ Paul E. Rathbun

Date: 09/22/08

SHARON SCHOLL - Fwd: paul rathbun's ammended pdq

From: JANE SHULER
SHARON SCHOLL
Date: 11/16/2008 10:45 AM
Subject: Fwd: paul rathbun's ammended pdq

Copy for the public hearing notebooks and put a copy in his brown folder new laurie's desk. Thanks, Jane

>>> PATRICK DENNIS 11/12/2008 10:38 AM >>>

Patrick Dennis
Chief Counsel, House Judiciary Committee
P.O. Box 11867
Columbia, S.C. 29211
(803) 734-3120 Phone
(803) 734-9945 Fax
dennisp@scstatehouse.net

>>> <PDESQ95@netscape.com> 11/11/2008 3:14 PM >>>
AMMENDED PERSONAL DATA QUESTIONNAIRE

PAUL E. RATHBUN

Please accept the following amendments to questions 14, 19, 30 and 48 to my original Personal Data Questionnaire.

14. Description of my legal experience since graduation from law school.

I began working with the Horry County public defender's office in June 1995 as a research staff member. After passing the bar I began to represent clients in General Sessions court. As a public defender I was exposed to the gamut of criminal defense cases from simple possession of drugs, driving under suspension to criminal sexual conduct. I have experience in numerous trials, plea negotiations, bond reduction hearings and probation violations. In the three years I represented adults I believe I handled in excess of 1,500 court appearances.

In the fall of 1998 I went into private practice as Rathbun Law Firm, LLC. During the two years I practiced I was involved in numerous real estate closings, a few wills, and personal injury cases. I also represented individuals in General Sessions for the public defender where the office had a conflict.

In November 2000 I returned as a fulltime lawyer to the public defender's office representing magistrate cases and juveniles in Family Court. Within the first year the Family Court took precedence dropping magistrate level hearings. To date I believe I have represented thousands of juveniles in detention hearings, pleas, trial competency hearings, dispositions after evaluations, status offenses and violations of probation.

Since 2006 I have been a member of the Horry County Drug Court board, assisting in making decisions regarding participants on a weekly basis.

19. List five of the most significant litigate matters I have personally handled.

State v. Louis M. Winkler: this was a death penalty case, I sat second chair to Mr. Ralph Wilson. This was
file://C:\Documents and Settings\SSS\Local Settings\Temp\XPGrpWise\491FF9DBUSR_DOMAINSE... 11/18/

first involvement in a capital case and the emotional toll it would take on each of us. While we did not prevail we did everything possible to represent our client and to win each separate phase in the case.

State v. Andre Lindsey: the State did not provide the identifying photo until the morning of the trial. Once I saw the picture of the alleged drug seller I became aware that the defendant was not the individual in the photo. No matter my effort the solicitor and investigative detective were not convinced, the jury was.

In the Interest of Joshua J., a minor: CSC w/ a minor 1st degree. I had previously had the bad luck to have been granted a directed verdict on the same charge only have the court on its own motion convict a previous client of Attempted CSC. Since that time I have worked diligently to obtain ABHAN for them as a lesser included charge. The court has discretion and usually after an evaluation which includes a Sex Offender specific evaluation there is no one recommending the sex offender registry for first time offenders.

In the Interest of Dillon N., minor: one of my earlier CSC cases where the guardian as litem and I were able to have our client enrolled in a sex offender specific program prior to adjudication. The process took almost three years but in the end the State allowed him to plea to a lesser included charge due to his progress and reconciliation with his familial victim.

In the Interest of Johnathon S., this individual came in at a young age for Disorderly Conduct. This young boy disclosed to me and to the DJJ case worker, as did his step mother and father neither of whom were my client, some very disturbing psychological aberrations. The step mother made the disclosures on the record placing the court and officers in a position where his fantasies/desires had to be addresses in a formal manner. He is currently receiving sexual predator counseling and is still in DJJ custody where he appears to be doing quite well.

30. Describe any financial arrangements that could result in a possible conflict.

In 1998 – 1999 I was a silent partner in Rathbun and Wright Landscaping, LLC. Mr Wright and I were to each invest an equal sum to start up the company. I did so, Mr. Wright did not. After numerous attempts to resolve this situation in 2002 I appeared and prevailed in Horry County's Master-In-Equity. Should Mr. Wright appear before me I would inform all parties and determine whether Mr. Wright wanted me to recuse myself. If he did, I would.

48. Provide any information which may reflect positively or negatively on your candidacy.

I came to the practice of law at 47, later in life than most lawyers. Although my father, a FBI agent for 35 years and my uncle, in private practice for 40+ years, did expose me to alternative and a more gentle mode of practice, was not prepared to go to law school early on. My life's experiences, military service as company then battalion clerk then a tour in Viet Nam; working in the construction industry in positions of supervision, estimating and contract performance provide a broader base upon which I have built my legal training. I have raised a family and am now grandfather to three of my own and eight on my wife's side. Throughout my life I have had an abiding belief in my God and His place in my life. The countless hours of court room exposure these experiences have given me have provided me with an appreciation of the roles and responsibilities of each individual it takes to run a court efficiently. I have had the pleasure working with a number of the 'old hands' both on and off of the bench. The respect and patience shown each other here in Horry County's courts may not be reflective of all circuits but it does set an atmosphere more conducive to amenable solutions to difficult situations.

I will to continue to show the respect and deference to the bench and bar whether I am selected to fill this position. It is my belief that to become a lawyer demonstrates not only intelligence but the ability to succeed, that those who are lawyers are held to higher standards. It is more so for members of the bench. Being a judge is to accept a trust from the people, a duty to arbitrate their legal issues in a fair and unbiased manner. I know that I am worthy of such trust

Netscape. Just the Net You Need.