

**JUDICIAL MERIT SELECTION COMMISSION
PERSONAL DATA QUESTIONNAIRE**

Court, Position, and Seat # for which you are applying: Judge of Circuit Court, First Circuit, Seat 1

1. NAME: Mr. James E. Chellis
BUSINESS ADDRESS: 112 West 4th North Street
Summerville, South Carolina
E-MAIL ADDRESS: jec@chellisandframpton.com
BUSINESS NUMBER: (843) 871-7765

2. Date of Birth: 1951
Place of Birth: Summerville, 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.

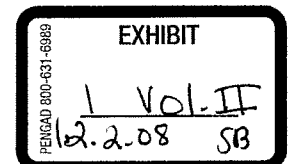
5. Family Status: Married on August 3, 1974, to A'delle H. Chellis. Never divorced. Two children.

6. Have you served in the military? NO.

7. List each college and law school you attended, including the dates of your attendance, the degrees you received, and if you left an institution without receiving a degree, the reason for your departure.
 - (a) University of South Carolina, September, 1970 through December 31, 1973
Bachelor of Arts (Major: Intensive English);
 - (b) Baptist College at Charleston, Spring, 1972 (February 1972 through May, 1972)
I took 2 courses in the spring of 1972 while convalescing from a gunshot wound suffered while hunting. No degree.;
 - (c) University of South Carolina, September 1974 thru May 14, 1977
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, 1977.

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) Athletic scholarship and member of the USC Swim Team 1970 through 1971, and 1972 through 1973;
 - (b) Member: Kappa Alpha Order, September 1970 – December 1973.



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>Dates</u>
(a) Current Developments in Commercial Real Estate	10/10/2003;
(b) 18 th Annual Claims and Underwriting Seminar	11/05/2003;
(c) 19 th Annual Claims and Underwriting Seminar	11/03/2004;
(d) What It Is, What It Was And What It Shall Be	12/17/2004;
(e) Attorney ECF Training	08/10/2005;
(f) 20 th Annual Claims and Underwriting Seminar	11/16/2005;
(g) 27 th Annual Duke University Estate Planning Conf.	10/6-7/2005;
(h) Current Litigation Seminar 2006	04/28/2006;
(i) 28 th Annual Duke University Estate Planning Conf.	10/5-6/2006;
(j) Discouraging Family Estate Litigation	07/24/2006;
(k) 21 st Annual Claims and Underwriting Seminar	11/15/2006;
(l) Recent Developments in Real Estate	12/08/2006;
(m) 17 th Annual Criminal Practice in South Carolina	10/05/07;
(n) 23 rd Annual South Carolina Criminal Law Update	01/25/08;
(o) Current Litigation Seminar 2008	05/02/08.

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

(a) Course: "Discouraging Family Estate Litigation through Proper Planning and Administration"

Lectures:

(i) "Tips for Drafting Estate Planning Documents";

(ii) "How to Administer Trusts & Estates to Anticipate and Avoid Litigation";

(b) Course: "Resolving Real Estate Title Defects"

Lectures:

(i) "The Quiet Title Suit and Other Actions";

(ii) "Party Wall, Driveways/Roads, Agreements and Other Party Agreements";

(iii) "Monetary Settlements and Escrow Agreements."

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

For each of the two seminars at which I presented, the following articles were published:

(a) "How to administer trusts & estates to anticipate and avoid Litigation" (National Business Institute, Summer 2006);

(b) "The quiet title suit and other Actions" (National Business Institute, Fall 2006);

(c) "Access and Road Issues" (National Business Institute, Fall 2006).

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) Supreme Court of South Carolina and all Courts of the State of South Carolina, November 9, 1977;
 - (b) U. S. District Court for the District of South Carolina, approximately 1980;
 - (c) U. S. Court of Appeals for the 4th Circuit, approximately 1980.

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.

Since my admission to the South Carolina Bar, I have engaged solely in the general practice of law in Summerville, South Carolina. The following are the dates and names of the law practices in which I have been a partner or, in the case of my solo-practice, the owner.

- (a) November 9, 1977 – July, 1978: Prettyman, Chellis & Cordray;
- (b) July, 1978 – August, 1980: James E. Chellis, Attorney at Law;
- (c) August, 1980 – Fall, 1983: Chellis & Mortimer, P. A.;
- (d) Fall, 1983 – May, 1995: Chellis, Mortimer & Frampton, P.A.;
- (e) May, 1995 --- present: Chellis & Frampton, P.A.
(during a brief period we were a Limited Liability Partnership which had the same name).

Using these periods, the general character of my practice has been as follows:

- (a) November 9, 1977 – July 1977: Prettyman, Chellis & Cordray
During this short period, I was engaged in general civil litigation and transactional matters. I also handled both retained and appointed criminal defense cases because at this time, Dorchester County did not have a Public Defender. During this time, I participated in my first jury trial, and defended an elderly, retired military officer in an action for malicious injury to personal property. The case was prosecuted by the Solicitor's office in the magistrate's court.

I was also exposed to my first civil trial at this time. We represented the beneficiary of a life insurance policy who was denied benefits under the policy because the insurance company asserted the insured committed suicide within two years of the inception of the policy. The case was tried in federal court to a jury. I did not try the case, but I did handle extensive research on specific issues raised in the suit.

The transactional cases I dealt with involved primarily residential real estate. Dorchester County, and, in particular, Summerville, has experienced steady growth for the entirety of my career. Because of this growth, real estate transactions have been a constant in my career. At this early stage, my practice included the actual title examination and closing of single family residential real estate matters. I also began

doing a smattering of simple estate planning, drafting wills and trusts, and organizing small businesses. These transactional cases have also been a constant in my career.

In addition I was involved in a variety of other cases, such as motor vehicle accidents resulting in personal injury, divorce, separation, child custody, breach of contract cases, probate administration and litigation, and, surprisingly, several fraud cases. During this period, I considered and actually pulled, copied and read what I thought was the full body of South Carolina fraud cases in anticipation of writing an article about the South Carolina law of fraud. The project ultimately fizzled because of time constraints, which largely arose out of my decision to separate from the firm and "go solo", only eight (8) months after being admitted to the Bar.

One of my first cases was a probate litigation case. This case is notable to me because it taught me that a general practice will expose one to significant legal issues. The case involved an omitted spouse's claim to her husband's estate. This rather factually simple case had an interesting twist because the primary beneficiary, whom I represented, was the decedent's grandchild, the child of an illegitimate child. His name was incorrectly stated in the decedent's Will thus raising the issue of the competency of the decedent. The wife also argued South Carolina's 'bastardy statute' barred the grandson from inheritance. This case is memorable to me because the lawyer on the other side of the case became a Circuit Court Judge and later served on the Court of Appeals. I settled this case, but not without interesting debate over the then recent case of *Trimble v. Gordon*, 430 U.S. 762, 97 S.Ct. 1459, 52 L.Ed.2d 31 (1977), declaring statutes restricting the intestate inheritance of illegitimate children from their fathers unconstitutional.

While this case showed me early in my career that a general practice is fertile ground for challenging issues, I began to develop a loyal client base. My first client remains a client of mine today. I organized a company for him, later drafted his Will, settled his father's Estate, and recently settled his mother's estate, whose Will I drafted many, many years ago.

I make this point here because the general practice of law in a small town presents ever challenging and unique issues for a lawyer. I learned that what may appear to be a mundane matter often presents in its details cutting edge legal issues. I also learned that clients will remain clients if you handle each matter as if it were your first with the client. It is from this background of exposure to a wide variety of cases, with differing factual circumstances and situations, and with clients of varying social and economic standing, that I have come.

- (b) July 1977 to August 1980: James E. Chellis, Attorney at Law

During these three years, I continued my general practice but began to pick up several clients that required me to broaden the scope of the general practice. I paid my overhead by handling real estate matters. I was able to pay myself by handling civil trial matters, including family law cases, and an occasional retained criminal matter. I continued to receive appointed criminal cases.

The practice of real estate law then was quite a bit different than it is now. I continued to search the titles for property transactions in which I also was the closing attorney (today I hire contract abstractors). I spent the greater part of my time during this period in the record room examining titles. I do not regret the time I spent there because, frankly, I think examining titles was enormously helpful in learning how to practice law and practice it carefully. Invariably, in the course of a title examination, one has to examine a civil litigation or probate file. My mentoring was not through the Bar Mentoring program, which did not exist then, but came by way of reading through the pleadings, motions, correspondence and the orders in these case files. In short, this is when and where I incubated and began to grow as a lawyer.

On September 5, 1978, two months after I opened my solo practice, I was appointed to a capital murder case. A local merchant was robbed and gunned down by four assailants. Four men from Florida were arrested and charged with the murder. Circuit Court Judge Rosen began appointing lawyers in St. George and Summerville to represent the defendants. The Solicitor announced he would seek the death penalty and each defendant was appointed two lawyers. This case occurred before the criminal appointment process was done by rotating through the Bar Roster. I was not considered for appointment initially because of my lack of experience. But when the entire County Bar was exhausted, but for me, Judge Rosen appointed an Orangeburg attorney to handle the first chair and me to handle the second chair. This appointment was ten months after I was licensed to practice law. The Solicitor tried each defendant separately and our client, who was allegedly the "trigger man," was left for the last trial. Our client defended his innocence from the beginning, without faltering, in his claimed alibi. The case ultimately went to trial resulting in an acquittal. This case is the only capital murder case on my resume. In defending the client, I handled most of the leg work and legal research. I conducted the direct examination of the defendant, who took the stand in his own defense.

Nearing the end of this period, the national economy began to falter. The character of my practice likewise began to change. The new federal bankruptcy code had been enacted, which introduced the concept of the individual re-organization plan (Chapter 13). Few members of the local bar handled bankruptcy cases, and I had clients

who needed this service. I studied the law and filed a Chapter 7 case for a contractor. Other cases followed. Other lawyers referred bankruptcy cases to me, in particular, a local well known grocery store owner, whom I will discuss in the next time period of my practice. In bankruptcy law, one must be capable of dealing with all and sundry areas of substantive law as well as navigating the unique procedural issues of the Bankruptcy Court. Learning bankruptcy law was a first of several practice 'extensions' that I have undertaken during the course of my career.

During this period, I continued to handle family law matters. My first personal injury matter was a worker's compensation case. I have continued to handle workers compensation. However, in the most recent five years or so, I have associated counsel in these cases because of work load constraints. I also took a case that challenged administrative civil fines based on a warrantless search of a local miner's office by the Mine Safety and Health Administration, which I challenged on a Fourth Amendment unreasonable search and seizure argument. I also handled various personal injury cases.

I picked up two corporate clients, a steel fabrication contractor, and an automobile dealership. The former client wanted me to handle its commercial collection cases, one of which I discuss later, and the latter client engaged me to defend a fraud and misrepresentation claim. After handling the fraud case, I began handling this client's claims for deficiency judgments arising from recourse financing of the dealer's installment sales contracts financed by the manufacturer's credit company. Through these two clients, I began to handle debtor-creditor relation cases, on behalf of both debtors and creditors. At the end of this period of my career, however, I decided to stop taking marital litigation cases.

(c) August, 1980 to Fall, 1983: Chellis & Mortimer

During this period, my partner and I tried to establish a business and estate planning boutique firm. This concept did not play well in Summerville as the client base was limited and the national economy tanked. In 1982, or shortly thereafter, Congress eliminated many of the tax advantages small businesses enjoyed (closing the widely politicized loop-holes), *e.g.*, the investment tax credit and accelerated depreciation, and changed the estate tax such that very moderate estates were no longer subject to estate taxes (incremental increases in the unified gift and estate tax credit). These changes in the law caused my partner and I to re-evaluate our boutique concept. I continued to handle the collection cases of the steel fabrication company and began handling a significant number of collection cases for the automobile dealership. So, we began to take civil trial matters again, particularly commercial debt collection. To improve our client base, we enlisted in a forwarding

service to develop this practice. I renewed my earlier practice of workers compensation and a few family law matters and continued to handle bankruptcy cases. I also continued to handle residential real estate matters. Our litigation practice began to grow and an opportunity to associate a lawyer to handle our increasing trial work presented itself. At that time, my current partner joined our firm.

- (d) Fall of 1983 --- May 1995; Chellis, Mortimer and Frampton, P.A.
- During this thirteen year period, my practice changed as the needs of my clients changed. In particular, as the economy changed, my practice changed. I continued real estate matters, and by referral of a few cases from other lawyers, I developed a practice in real estate litigation, particularly curing title defects. During the early 1980's the national economy remained sluggish and many of my clients continued to suffer financial hardships that led to bankruptcy. I also had handled a number of Chapter 7 cases by this time, as well as a few Chapter 11 cases. The one case of the grocer, however, was exceptional as other grocers, with the same national distributor, were closing down. At first blush, this case appeared to be a circumstance of the national economy. However, drawing on my experience in fraud cases, and discussing with my client the facts surrounding his business failure, I associated another more experienced attorney, and we filed a suit in the federal court alleging fraud and a RICO claim against a national food distributor. The case required extensive discovery. I had recently been asked by two younger attorneys to be their mentor, and I associated these two attorneys to go through a warehouse of documents and assist in research. I handled most of the trial preparation, including overseeing the discovery. The case was settled the day I was scheduled to take the depositions of the defendant's chief executives. One of those younger lawyers became a Probate Court Judge, and is now serving as a Family Court Judge in our circuit.
- Other cases came my way involving employee injuries in the work place. Some of these cases evolved into third party claims, *e.g.*, third party claims against an at-fault driver. One third party claim that I brought in Federal District Court bottomed on product liability against the manufacturer of a come-a-long lifting device. Another workers compensation case evolved into a products claim against a paint manufacturer. The former case involved extensive discovery and expert testimony, including a mechanical engineer with a subspecialty in tensile strength of wire and an economic loss expert. The former was tried unsuccessfully to the jury; and the latter involved the tricky rules of federal preemption regarding military contracts. Another products case, in which I associated counsel, involved an alleged manufacturing defect in a heart catheter used in angioplasty. This case also had federal

preemption issues, which arose out of the federally regulated drugs and medical devices.

I also continued to build a practice base around small businesses. Much of this work was transactional in nature, and included counseling parties on the form of business in which they should engage, drafting partnership and shareholder agreements, and negotiating and drafting agreements for the sale and purchase of business assets. Quite naturally, one significant evolution of a business planning practice in a small town involves the enforcement of contracts. To this end, I have represented many local businesses in breach of contract actions, claim and delivery actions, mechanics liens, and debt collection actions. One significant non-jury case that I tried, for my steel fabricator client, had as its central issue the failure of a buyer to notify my client, the seller, of a nonconforming product it sold. By statute, the failure to notify the seller of the nonconforming goods bars any remedy. I proved the failure of notice, won at the trial level, and the case was affirmed on appeal. Southeastern Steel Company V. W.A. Hunt Construction Company, Inc., 301 S.C. 140, 390 S.E.2d 475 (Ct. App. 1990). This case has been discussed or cited in at least three cases and used as secondary source material in well over twenty instances.

I continued to represent car dealerships. I associated counsel in a case brought against one of my dealership clients by the South Carolina Consumer Protection Agency involving claims alleged for violations of the SCCPA. This case was eventually settled prior to trial, and again highlights the breadth of experience I have gained in my career as a lawyer in Summerville.

During this time, I also brought foreclosure actions on commercial mortgages. I have also defended a commercial mortgage foreclosure action, in which I tested the waters of lender liability in a failed real estate development evolving out of the local depression that occurred after closure of the Charleston Naval Base.

As the economy began to improve in the mid 1980's, I began to represent a number of real estate developers. This work is, for the most part, transactional in nature. Nonetheless, and I think importantly, as it relates to one's judicial merit, I worked on clearing a major development obstacle on a large tract of land to be developed into single family residential homes around a golf course. The title defect was created by a landowner in the late 1960's when he subdivided on paper a large tract of land (more than 1,000 acres) and showing many unopened roads in the subdivision. The developer then sold 300 to 400 lots on land contracts that referred to the plat he recorded. Many of the streets were never built. I represented a developer who purchased the residual tract of the "paper subdivision", and prepared and gathered on its behalf a waiver and release of the private implied easement that the lot owners

had to the paper streets. Our efforts in gaining nearly 100% cooperation from those landowners (over several years effort) were successful because we prepared a clear, concise and easily readable waiver and release and approached each landowner with a transparent, honest explanation of the goal we were attempting to achieve and invited them to seek advice from their own attorney should they chose to do so.

This development has been a success story. The properties of these folks, who were perhaps 'boondoggled' in the late 1960's, has enjoyed tremendous appreciation in value since the golf course development began (this residential development continues to be developed to date). By the end of the 1980's the economy was on the upswing generally. So, with a major change in the Bankruptcy Code, I decided to stop taking these cases. The cost of staying current was expensive and the number of these cases declined in the improving economy. By this time I had also stopped taking debt collection cases forwarded to us via the forwarding service to which we had subscribed.

- (e) May 1995 to Present: Chellis & Frampton, P.A. (formerly Chellis & Frampton, LLP)

My motor vehicle personal injury cases dried up as the mass media advertising model for attracting these cases took hold. After the loss of a trial in an automobile accident case, my client, who was rendered disabled from the accident, needed help filing a Social Security Disability claim. I decided to learn this area of the law, and filed his claim. Since then, I have taken a number of disability claims for clients to the Office of Hearings and Appeals. This expansion was the last time I literally decided to extend my practice into a new substantive area of law.

I have, however, handled a several wrongful death cases, two federal tort claim cases (with associated counsel), and more recently associated a complex torts litigation firm to bring a class action case for property damage resulting from a very high occurrence of copper water pipes pitting (corroding) and causing very incipient water leaks that led to property damages in innumerable homes in and around Summerville. This case was brought as a class action. The class was not certified and because of the high costs associated with litigating each claim, individually, the case has ended. However, the two years of preparing this case for filing, and the extensive discovery in a complex litigation case, gave me significant experience as to the proper investigation of a complex tort claim prior to filing and the necessary depth of the discovery process. I participated in all of the discovery and met with several expert witnesses used to develop the basis of the claims. Although I did not argue the class certification, I did attend the extensive class certification hearing.

I have also continued to handle real property litigation matters. I tried a complex implied easement case before the Master-in-Equity and successfully proved the implied access. I have prepared and successfully concluded the closing of a street to facilitate the commercial development of a large tract of land for a shopping center. In the transactional aspects of the practice, I was local counsel to two complex commercial real estate developments.

On September 11, 2001, a start-up corporate client of mine turned on the switch of its manufacturing plant in Edgefield County. I was counsel to the client in the negotiation of and closing of \$28,000,000.00 in financing to begin this venture. The venture created several hundred jobs in Edgefield County. Unfortunately, the first business day of operations for the company was one of the worst days in American history. The company's ability to gain market share for its laminated wood product was totally interrupted by the events of 9/11. In the aftermath of a slow economy the company could not gain enough traction to push through the sluggish economy. Unfortunately this company did not survive through the Spring of 2002.

I previously mentioned in this response that the drafting of wills and trusts has been a constant in my practice. I have been efficient in estate planning for clients whose assets range from very moderate to as much as \$5,000,000.00. This amount is my arbitrary cut off. For the clients who have assets exceeding this threshold, I refer to estate planning specialists. But, my law school training in drafting wills and trusts with Robert Wilkins has paid for itself many times over. This practice is now becoming a probate administration practice. I have received referrals from other lawyers for probate matters involving litigation because of my litigation background.

Currently, I have my bread and butter real estate practice, wills, trusts, and estate planning, and business planning practice. I have a young associate who helps in large part with this work. I recently hired an associate to handle our growing probate practice. Recently, we completed two suits to quiet title and partition of lands, and a boundary dispute. One case was described by the Master as the most complicated he had seen. I also recently tried successfully a trespass to quiet title case. This past year I settled a wrongful death case and currently I am litigating a slip and fall (third party claim arising from a work-related injury). The former case was evaluated for a latch design defect case; however, the client decided not to pursue this.

Additionally, we are serving as local counsel for two pending mesothelioma cases. Both are currently in discovery.

If you are a candidate for **Circuit Court**, please provide a brief written description of your experience in criminal matters, including any cases handled over the past five years and include a brief description of the issues involved.

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

Criminal Law Experience

I have not handled any criminal cases in the last five years. My criminal experience dates to the cases I handled in the first five or six years of my practice, which are generally described above. I have handled several post-conviction relief cases in the past five years. While these are civil cases, the review of the cases I handled have required consideration of the substantive law and procedural law. One PCR case involved an armed robbery charge, and was defended by a Public Defender. The Petition alleged ineffective assistance of counsel. I raised the issue of lack of jurisdiction at the PCR hearing, successfully argued that the indictment failed to properly allege the crime. The court agreed with the latter but denied the ineffective assistance of counsel claim.

Civil Trial Law

The following is a brief description of the civil trial matters handled over the last five (5) years:

- (a) suit for corporate dissolution of an LLC;
- (b) enforcement of subdivision restrictions;
- (c) partition of beneficiary's interest in decedent's residence;
- (d) defense of claim of breach of fiduciary duty of an agent under a general durable power of attorney;
- (e) defense of negligence claim against a surveyor;
- (f) social security disability;
- (g) fair housing discrimination;
- (h) eviction from a foreclosed home;
- (i) commercial collections for local building supply company;
- (j) breach of warranty;
- (k) personal injury from a motor vehicle accident;
- (l) defense of negligence, product liability and warranty claims in an EBS (stucco) case;
- (m) boundary line dispute (surveyor negligence issue);
- (n) suits to quiet title;
- (o) as associated counsel in a class action case;
- (p) as associated counsel in two mesothelioma cases;
- (q) personal injury arising from negligence of premises owner;

- (r) wrongful death claim arising from a MVA.
- (a) Corporate dissolution of an LLC as Plaintiff's counsel; issue involves alleged malfeasance of a member; procedural history: summons and complaint filed; answer filed; parties are attempting to settle without alternative dispute resolution, trial date is set.
- (b) Enforcement of subdivision restrictions as Plaintiff's counsel representing the Homeowners Association; the issue is whether a homeowner complied with the restrictive covenants in construction of a pool. The lis pendens, summons and complaint and answer are filed; and trial is pending before a Special Referee.
- (c) Partition of beneficiary's interest in decedent's residence as Plaintiff's counsel; the issue involves the right of a beneficiary, who has filed bankruptcy, to partition and sell decedent's residence. Procedural history: filed a summons and petition on behalf a Chapter 7 Trustee from Massachusetts, the answer has been filed, and a hearing has been held granting the petition and directing the Personal Representative to sell the residence; re-hearing requesting compliance is pending.
- (d) Defense of claim of breach of fiduciary duty of an agent under an earlier general durable power of attorney; procedural history: My client's attorney in fact filed a suit in Dorchester County to declare a subsequent general durable power of attorney void because the principal's physician opined that the principal lacked capacity at the time she executed the second Power of Attorney. The attorney in fact designated in the second Power of Attorney filed suit in the principal's County of residence alleging breach of fiduciary duty, constructive trust and accounting of the acts of the first agent. I filed a motion to dismiss the second suit for the reason that a case was already pending in which the same facts and circumstances were at issue. The trial judge denied the motion. I dismissed the first suit, answered the second suit and plead as counterclaims the allegations of the first suit. After I filed a motion for Summary Judgment, the case was successfully settled after intense negotiations.
- (e) Defense of negligence claim against a surveyor; issue was whether the surveyor properly identified a flood zone; procedural history after pleadings and discovery, the case was settled through mediation.
- (f) Defense of corporation in motor vehicle accident in which potential damages exceeded the insured's liability coverage; the procedural history involved assisting the corporation's President in answering discovery; defending the deposition of the President of the corporation; assisting insurance counsel for the corporation in the arguing a motion for summary judgment on the issue of scope of employment; and defending a declaratory judgment action filed by one of the insurance carriers.

- (g) Defense of teacher's suspension for violation of school internet policy and sexual harassment of a student; the catalytic issue was whether the teacher's email to a blog sponsored by a gay and lesbian political action committee constituted hate mail (the teacher had recently published a book of fiction exposing a love affair between a high school teacher and a student). While investigating this, a student filed a claim that alleged sexual harassment. The procedural history was a letter of objection to the Superintendent; denial of the objection to the suspension; and application for an opportunity to be heard on the allegations. After investigation of the alleged violation of the school board's internet policy, and response of the teacher, the teacher opted to resign and keep his credentials without the school making a finding.
- (h) Social Security Disability cases; the issues are disability as defined under the Social Security Act; procedural histories are application for appeal before an Administrative Law Judge, and hearing.;
- (i) Fair Housing discrimination; the issue was whether a tenant could be evicted because she suffered from cancer; procedural history was to file a claim with the South Carolina Department of Human Affairs, which manages Fair Housing Complaints. The complaint, and demand for conciliation, and negotiation of damages through the South Carolina DHA. I represented the claimant.
- (j) Eviction from a foreclosed home; the issue was enforcement of Master's decree, which directed sheriff to remove tenants in possession; procedural history was a demand and negotiation of time for tenant to vacate.
- (k) Breach of warranty, defense of negligence, product liability and warranty claim in an EBS (stucco) case; procedural history: after pleadings and discovery, the case was settled through mediation. I represented the seller of the house, a defendant.
- (l) Boundary line disputes; the issues involve establishing paramount title and proper survey; I have represented plaintiffs in these cases. Two cases were referred by title insurance companies, one was a retained case. Two cases were tried before the Master in Equity after discovery. One was settled after pleadings and discovery was completed.
- (m) Quiet title and partition suits; the issues are to determine and declare the ownership in fee simple of the property and seek authority of the court to partition the property by private sale. The procedural history includes: filing the lis pendens, summons and complaint; petitions for the appointment of the guardian nisi, then absolute; preparing affidavits and petitions for Order of Publication; procuring service on all defendants; Affidavits for default and motions for default; motions and Orders for referral to the Master in Equity; preparing for and attending hearings on the claims; Orders have been entered.

- (n) Successful settlement of a wrongful death claim arising out of a motor vehicle accident. The Decedent was thrown from the vehicle he was driving. Therefore, we investigated a door latch defect to determine the viability of a products liability case against the decedent's car's manufacturer. The client declined to pursue the products case.
- (o) Suit for collection of rent due on a commercial property. For this client I negotiated a corporate dissolution of a 20 plus year old swimming pool contractor; one of the assets distributed to my client was a real property. We established the client in a LLC, she leased the property. The tenant defaulted. We brought suit to collect the rent due. After obtaining an Order of Default, we procured a default judgment using SCRPC 55(b) (1) & (3), the latter relates to procuring a default judgment for attorneys fees which are not a liquidated amount under the contract.
- (p) I recently brought a motion to compel compliance with a judgment in an action in which the master in equity declared the ownership of property and authorized the sale of the property. My clients were not paid their proceeds of the sale. We case was recently heard resulting in an Order from the bench directing payment of my clients share of the proceeds. A determination of an award of attorneys' fees is pending.
- (q) I recently successfully resolved a past due rent claim against a Client's Tenant who file for protection under the Bankruptcy Code. The claim was resolved as an administrative claim arising from the use of the Landlord's property during the pendency of the Bankruptcy.

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: None;
 - (b) state: Moderate Frequency.
17. What percentage of your practice involved civil, criminal, and domestic matters during the last five years?
- (a) civil: 100%;
 - (b) criminal: 0%;
 - (c) domestic: 0%.
18. What percentage of your practice in trial court during the last five years involved matters that went to a jury?
- (a) jury: 0%;
 - (b) non-jury: 100%.

Did you most often serve as sole counsel, chief counsel, or associate counsel in these matters? Sole Counsel except as otherwise stated above.

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) Southeastern Steel Company v. W.A. Hunt Construction Company, Inc., 301 S.C. 140, 390 S.E.2d 475. (Ct/App 1990)

This case is significant because it establishes that the failure to give notice to a seller of nonconforming goods in a commercial sale of goods, bars the buyer from a set-off for the costs of curing the goods. It also establishes that notice to the seller is not required to be in writing.

(b) Goodwin v. Johnson, Circuit Court order dated, June 19, 2001

The issue in this case involved whether an implied easement arose where the common grantor sold the servient estate and retained the dominant estate. There is dictum in the leading South Carolina case, Brasington v. Williams, 143 S.C. 223, 141 S.E. 375 (1927), which allows authority for the implied easement if the access is strictly necessary. The present case turned on this issue. I was able to prove that my clients' access over the servient estate was strictly necessary to the enjoyment of the retained property, which my client acquired. I tried this case. My client, retained different counsel to respond to the Defendant's appeal. Notably, the trial order was affirmed on appeal. The following is the appeal history: Goodwin v. Johnson, Op. No.2001-UP-323 (S.C. Ct. App. filed June 19, 2001). Goodwin v. Johnson, 357 S.C. 49, 591 S.E.2d 34 (Ct. App. 2003) (NO. 3696), rehearing denied.

(c) The Herschel Hall case (I opened this case October 20, 1992 and closed it July 23, 1997)

This case was a third-party claim arising from a work-related injury and is significant because my client had suffered a totally disabling event as a result of a motor vehicle accident at a "t-bone" intersection controlled by a traffic light. The factual issues required me to evaluate the timing of the change in signal from green to amber to red in conjunction with the speed of an automobile being driven at the speed limit at the intersection. The discovery in the case involved the design and trip timing device issues of the traffic signal at the intersection. Because my client's injury was a work ending injury, there were significant economic losses. Thus, I required an economic loss expert. On balance, the case required a trial and the client would not accept the proffered offer to settle. I lost this trial on the liability issue, and my client's disability prompted me to learn the law of Social Security Disability.

(d) My first criminal trial in magistrate court (1978)

This case is significant because it was my first criminal trial and taught me that clients do not always tell the truth during preparation for trial. In this case my client adamantly denied the alleged malicious injury to

personal property. He insisted on taking the stand in his defense. On my direct examination, I asked my client if he did the crime of which he was accused. My client did not lie on the stand, admitting he committed the crime, and railed about the injustice he had been subjected to by his neighbor.

- (e) *In re James R. Andrews, Jr., Debtor*, 15 BR 717 (1981)
I represented creditors in a Chapter 13 case in which the creditors objected to the proposed plan on the grounds: that a Chapter 13 plan may not be used to "cram down" a defaulted and accelerated mortgage; and that a person other than the debtor may not cure the default on a long term secured claim. The court held the debtor's proposed plan violated the intent and spirit of §1322(b) (5) and was not compatible with the "fresh start" philosophy of the Bankruptcy Code. Thus, in denying confirmation of the plan, the Court concluded that the plan, which allowed a third person to assume the debtor's right to cure the default of the long-term obligation, did not come within §1322(b) (5), and was contrary to the purpose and spirit of Chapter 13.
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) SOUTHEASTERN STEEL COMPANY V. W.A. HUNT CONSTRUCTION COMPANY, INC., 301 S.C. 140, 390 S.E.2d 475. (Ct. /App. 1990);
- (b) Richards v. Hearn, Court of Appeals, (1998 unreported);
- (c) South Carolina Title Insurance Company v. Cooper River Federal Saving and Loan, Court of Appeals, Court of Appeals,(case rendered moot before oral argument);
- (d) Stone v. Fox, Court of Appeals, (1999 unreported).
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. NOT APPLICABLE.
24. Have you ever held public office other than judicial office? NO.
25. List all employment you had while serving as a judge (whether full-time or part-time, contractual or at will, consulting or otherwise) other than elected judicial office. Specify your dates of employment, employer, major job responsibilities, and supervisor. NOT APPLICABLE.
26. Have you ever been an unsuccessful candidate for elective, judicial, or other public office?

- In the Fall of 2007, I submitted my application for candidacy before the Judicial Merit Selection Commission for the Judge of Circuit Court, At Large Seat 13. The Commission reported me as 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? YES.
- (a) Town Square Abstract, General Partnership, 1978 to present
This company is a title insurance agency. We are agents of Chicago Title Insurance Company and Ticor Title Insurance Company. I am a partner in this company;
 - (b) Jurisprudence, LLC, 1981 to present
This business is a real estate investment company that my law partner, John Frampton, and I have formed. The Company is the entity that owns the office building that houses our law practice. We also rent space in this office to Thomas Hart, Esquire; and we rent a suite of offices to the Dorchester County Alcohol and Drug Abuse Commission for its Counseling Center. I am a member of this company;
 - (c) South Main Partners, LLC, 1988 to present
This business is a real estate investment company. I formed this company in 1988 with two persons. We acquired a mobile home park and remained in this business until 2006. We sold the park in exchange for 4 commercial buildings in December 2006. We sold one of these buildings recently. The three remaining are under lease. I am a member of this company;
 - (d) Stego, Inc., 1981 - 1982
This business was a venture in the wholesale brokerage of knit shirts.
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. YES.
- (a) Chellis & Frampton, P. A., Law Practice
I am the President of the Company and handle the administrative duties of the "business" aspect of the practice of law. I have an office manager to whom I look for completing the day to day matters (e.g., (e.g., accounts receivable and payable, payroll, monthly bank reconciliation and monthly financial statements, time billing and invoicing, 401K contributions, etc.) and assuring compliance with all governmental entities (e.g., payroll tax, unemployment, business licenses, South Carolina CLE Compliance, and Bar licensing).
Term of Service: July 1978 through the present;
 - (b) Jurisprudence, LLC
I participate in the management of this company on an as needed basis. Primary management of this company is handled by my law partner.;
 - (c) South Main Partners, LLC

I participate in the management of this company on an as needed basis. Primary management of this company is handled by the managing member, a real estate broker.

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.

Chellis & Frampton, P.A., Town Square Abstract, and South Main Partners, LLC.

A possible conflict would arise in cases handled by my law partner should I become a judge. In such cases, I would recuse myself.

In any case in which my real estate investment partner were involved, I would have conflict and would recuse myself from such cases should they arise. I would recuse myself from any cases if a tenant of my real estate investment companies were a party or witness.

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? YES.

I have been sued two times professionally. The first instance was when I was a young lawyer (approx. 1980). I handled a real estate transaction for a young married couple who were buying a lot on which they were going to build their home. The Seller was a friend of theirs, and a client of mine, a utilities (water and sewer) construction contractor. The Seller represented at closing that the lot had access to public water utilities. The Buyer asked for proof. The Seller told the Buyer the paperwork approving the public water system was at his house on his dresser. He further stated he would get the paperwork after the closing. I closed the sale. My client's statement was not true as the water system had not been constructed such that it connected to the public water system. The Buyer brought suit against me and the Seller. The case was settled by my insurance carrier for about \$3,000.00, as I recall.

The second occasion was in 2005. A lawsuit was brought by the Estate of and members of a family who inherited their membership interest in an LLC that operates a successful golf course in Mt. Pleasant, South Carolina against

their first cousin, who was the manager of and later became, based on performance criteria, an equity owner in the LLC.

Before the father of the plaintiffs died, I represented him in a mortgage foreclosure action. This claim evolved into a business work-out between disputing principals of the golf course and residential development. I represented the father by organizing an LLC, and assisting in the negotiations of the work-out solution with his partners. My client acquired the golf course and amenities and the other principals acquired the developable lands around the golf course.

The plaintiffs' father and their first cousin had negotiated a management agreement in Ohio (where the cousin lived) and Michigan (where the father lived and conducted business). The terms of the management agreement provided for an exchange of equity in the golf course operating entity, the LLC I organized, after my client had been paid back around \$4,200,000.00. The agreement was amended at least once but the general concept of a transfer of equity in the LLC based on performance milestones remained. Please note that I did not represent the first cousin in negotiating his "management agreement" as this was done between the parties. I did draft an employment agreement for my client setting forth the scope of the employment of his nephew, a CPA and retired GM executive, as manager.

The father died before the "equity" in the LLC transferred although, as I recall, the performance markers had been met. My client's personal representative was his long time friend, a retired Michigan judge (as a practicing lawyer he had dealt with Henry Richardson, who referred this case to me when he was in private practice). He tried making the equity transfer during his administration of the estate. Also, during this period, the plaintiff's first cousin acquired a tract of land on behalf of the LLC from the residential developers for the purposes of developing a golf academy. The Personal Representative had me give him an opinion of transaction, which I did. In other words I was retained by the Estate to assist them in the acquisition of the parcel for the golf academy. The LLC bought the parcel. I did not close the acquisition transaction.

During this timeframe, the first cousin asked if I could assist him in enforcing his rights under the management agreement. I replied that I could not as I had a conflict of interest since I had represented the decedent and his estate. I also sent a letter to the first cousin, the manager of the LLC, explaining that I had a conflict of interest.

Sometime after that I received a letter, which I think was addressed to the first cousin, from the Personal Representative advising he would get with me concerning the transfer of membership in the LLC. He never did.

Some time shortly thereafter the former Judge and Personal Representative died. One of the children was subsequently appointed the successor Personal Representative.

At this point (late Fall, 2000), my correspondence with the Personal Representative ended. I had been informed that the first cousin had retained a tax attorney in Charleston.

In 2005, the Personal Representative and children filed suit against their cousin alleging malfeasance, misrepresentation, fraud, conspiracy, etc. The first cousin defendant hired an attorney to defend him. I received requests from the attorney and his client to turn my file, or a copy of it, over to them. I declined, citing attorney-client privilege. I called the Plaintiff's attorney and sought permission to give copies of the file to the defendant, but was told not to because they were asserting attorney-client privilege.

Within several weeks, I received a Summons, Answer, Counterclaims, Cross-claims and Third Party Claims alleging, as it related to me, professional malpractice and negligence, negligent misrepresentation, breach of fiduciary duty and breach of contract.

After written discovery responses from the plaintiffs, which included a copy of my file, written discovery responses from me, and the deposition of the plaintiff's representative, the third-party claims brought against me were dismissed with prejudice.

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) Dorchester County Bar; President, more than twenty years ago;
 - (b) South Carolina Bar Association;
 - (c) American Bar Association;
 - (d) American Association for Justice f/k/a 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) Bethany United Methodist Church, Summerville, member
 - (i) President, Daily Bread Sunday School Class;
 - (ii) Disciple III leader;
 - (iii) Past-Disciple II leader;
 - (iv) Confirmation Mentor;
 - (v) Past-Chairman: Pastor Parish Relations Committee;
 - (vi) Past-Member, Education Building & Fellowship Hall Building Committee;
 - (vii) Member (ex officio): Sanctuary Building Committee;
 - (viii) Member (ex officio): Administrative Building Committee;
 - (ix) Past-Member, Board of Trustees;
 - (x) Member, Church Council;
 - (xi) Past-Stewardship Chairman;
 - (xii) Past-Member, Church Mission Statement Committee;
- (Note: Bethany is the largest United Methodist congregation in the South Carolina Conference);
- (b) Helping One Student at a Time (HOST), mentor since 2005

(Note: This public school mentoring activity is a reading program for 2nd & 3rd Grade Students at Summerville Elementary School who are identified as "reading challenged"; mentors teach reading skills and edify students one hour each week; Chellis & Frampton mentors the same child as a team with former partner, GW Parker);

(d) South Carolina Gamecock Club;

(e) USC Association of Lettermen.

48. Provide any other information which may reflect positively or negatively on your candidacy, or which you believe should be disclosed in connection with consideration of you for nomination for the position you seek. This information may include how your life experiences have affected or influenced the kind or type of judge you have been or plan to be.

My work ethic includes the sincere desire to do the best I can for whomever I am working. I believe my work is a professional service in the classic sense of the concept of professional service. I do not mean to sound self-righteous, that is not my intent; it is simply a core value statement. I am serious about whatever services I undertake and have a desire to always do exceptional work. I dislike mistakes and tend to overachieve. I do, however, have the ability to communicate well, both in writing and with the spoken word, especially as I become comfortable with a subject matter. In other words, I don't "fly by the pants" well. I like to be prepared. Also, I get along well with people and have been told that I make people comfortable and am easy to talk to. I feel that my temperament is well suited for a judicial position. I have been told that I have a good memory; although, I have problems citing cases by name. I tend to remember concepts better than specifics and usually have to review any details, even if I feel relatively sure of them. But, once I get them, I am pretty good at recalling them. I'll make a good judge. I am confident about this.

I would like the Commission to know that while I have not been involved in leadership roles in my church in the past five or so years. I, however, have served in several key leadership positions at my church. Similarly, in the past five years, I have not participated in civic organizations in my community. Likewise, though, I have held a number of leadership roles in civic organizations in Summerville since returning home after law school. I will be happy to discuss these instances with the Commission should the topic be of interest.

49. References:

- (a) William McLeod Rhodes, Esquire
1820 Savannah Highway
Charleston, SC 29407
(843) 766-9134;
- (b) Berlin G. Myers, Jr., President
Berlin G. Myers Lumber Corp.
350 N. Main Street
Summerville, SC 29483
(843) 873-2010;
- (c) Hugh G. Merriman, MD
1161 Cook Road
Orangeburg, SC 29118
(803) 395-4601;
- (d) Robert J. Howell, Jr.
M. Div., D. Min, Senior Pastor
Bethany United Methodist Church of Summerville
118 W. 3rd Street South
Summerville, South Carolina 29483
(843) 873-1230;
- (e) Debbie C. Clarke, Vice President
Wachovia Bank NA
4006 North Main Street

Summerville, South Carolina 29483
843-875-7493.

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/James E. Chellis

Date: 09/24/08

CHELLIS & FRAMPTON, P.A.



Attorneys at Law

JAMES E. CHELLIS
JOHN G. FRAMPTON
JOHANNA B. OWENS

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E-MAIL: attorney@chellisandframpton.com

December 1, 2008

Jane O. Shuler, Esquire
Gressette Building
1101 Pendleton Street
Room 104
Columbia, S.C. 29201

**Re: Amendments to Application of James E. Chellis
Judge of Circuit Court, Seat 1, First Circuit**

Dear Ms. Shuler:

Enclosed please find two amendments to my Application as follows:

1. RE: 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:

Please add:

16. **"It's All in a Game – Top Trial Lawyers Tackle Evidence" February 8, 2008**
sponsored by the South Carolina Bar CLE

2. RE: 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.

Please add:

Sons of Confederate Veterans, Fort Sumter Camp (note: my application for membership was accepted in 2007; membership for 2008 not renewed, currently listed: inactive status);

Funco, Inc. (note: a social club composed of approximately 40 married couples in Summerville; the Club organizes social gatherings four times a year);

The Dorchester Boat Club (note: a social club; this Club meets once a year; the Club is used for ramp access to the upper Ashley River and its small clubhouse and covered picnic area can be rented for personal or business uses).

Thank you for your assistance, and should you need additional information, please do not hesitate to contact me. Trusting that you are doing well, I am

Very truly yours,

James E. Chellis

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

Circuit Court
(New Candidate)

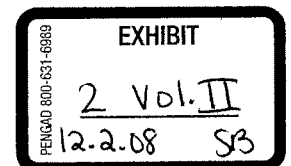
Full Name: James E. Chellis
Business Address: 112 West 4th North Street
Summerville
South Carolina 29483
Business Telephone: 843-871-7765

1. Why do you want to serve as a Circuit Court judge?

After practicing law in Summerville for thirty-one years, it is important for me to share the professional and practical experience I have developed for the benefit of the citizens of our State. I am confident that my development as a lawyer, which has been centered on my core values of service and integrity, has effectively developed my temperament to make wise and judicious decisions. I have an exceptional desire, a competitive desire, to be a better lawyer each day I go to work, to abide by the Attorney's Oath and our Rules of Professional Conduct, and especially to treat my clients and other attorneys with respect. Many judges have remarked to me that I have compassion for my clients, or that I am a kind person. I know my diligence and industry as a lawyer (my Personal Data Questionnaire explains this) will translate easily into the kind of diligence and industry required by the judges of our state. My broad and varied exposure in and to many areas of law have given me the opportunity to get to know the broad spectrum of our population. I have counseled the wealthy in our community as well as the poorest, the average citizen as well as the most exceptional leaders of our community. To this end, I have served modestly but effectively as an attorney for the people in my community -- the First Circuit -- whom I feel come to me because of my reputation for trustworthiness, and concern for them over and above my interest in earning a living. I understand that every case a lawyer takes is the most important matter of the client. It follows, therefore, that each case should be treated as a most important and serious matter by the lawyer.

I strive to be this kind of lawyer. I have demonstrated to my clients and my adversaries and their attorneys that the judicial system is a fair and functional tool in the resolution of disputed matters. I have a keen appreciation of ethical standards and behavior, including the basic core values of fairness and respect to all parties.

About six years ago, I began to think about the idea of serving in the judiciary. I began to think about this quietly but earnestly, and kept these thoughts to myself and my wife until the spring of 2006. I



consciously kept these thoughts quiet so as to consider whether my service on the bench would be the best way for me to enhance our society's reliance on the judicial system to advance justice and the rule of law. I needed this time to carefully weigh whether I could be independent and fair to persons involved in the judicial system. I needed this time to carefully consider the experience I have gained in practicing law so as to determine whether that experience was sufficient to enable me to represent to you and the public in general that I had the requisite intellectual abilities to be a competent member of the judiciary. I also needed this time to reflect on the fact that should I become a judge that I would serve as a highly visible representation of our government under the rule of law.

At first, as with most new ideas, I had a certain reticence. I have enjoyed practicing law the last thirty-one years despite its challenges and changes, *e.g.*, its sometime negative image in the minds of the public, and the economic difficulties associated with the business of practicing law in a small town serving ordinary, hard working folk.

About two and a half years ago I began to ask of my closest colleagues in the Bar, both plaintiffs' lawyers and lawyers in the defense bar, about their thoughts of my competence and temperament to serve as a Circuit Court judge. I was encouraged by remarks such as, "I think you would be a great judge," or "You are perfectly suited to serve on the bench." Two years ago, I broached the subject with my partner, John Frampton, whom I admire for his frankness, intelligence and trustworthiness, and he told me quite simply, words to the effect, "James, I think you'd be an excellent judge. You should go for it." And, since becoming more public about my interest in seeking a judgeship, I have received encouragement from every person to whom I have turned, including those who know me not so much as a lawyer but more so as a friend.

All of this encouragement has led me to conclude that I should offer myself as a candidate for Seat 1, First Judicial Circuit. Given the encouragement I have received from friends and colleagues, I humbly believe, our state will gain an asset should I be elected to serve as a judge of the First Judicial Circuit Court. So, in this sense, why I want to be a judge is really not about me but about the citizens of Dorchester, Orangeburg & Calhoun Counties and, of course, the State of South Carolina, a truly great state. I want to serve the citizens, the Bar and the State in the capacity of a Circuit Court Judge. I want to be the face of the rule of law in our communities. I want to show our citizens that the judicial system is the most effective and efficient way for persons to resolve conflicts affecting state cases and controversies. I want to judge crimes against our state and deliver appropriate and effective sentences to those who violate laws against the state.

My decision to seek election to Seat 1, First Judicial Circuit Court, has not been something I set out to do from the day I began practicing law.

I wanted to be a lawyer and to do the best I could for my clients. I have done that. Now, I believe it is time to apply my talents and abilities more broadly. Simply put, I want the State of South Carolina to send me to serve the First Circuit and the State of South Carolina, so I can help to improve the confidence our society has and should have in an independent, impartial judicial system.

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 Constitutional requirements for this position regarding age, residence, and years of practice? YES
5. What is your philosophy regarding *ex parte* communications? Are there circumstances under which you could envision *ex parte* communications being tolerated?

The jurisprudence of our state and country in cases and controversies espouses the rational investigation, development and determination of the truth as between competing interest and the proper application of reasoned resolutions. Our judicial system is a systematic method of rules and procedures for reaching truth. One who engages or attempts to engage, whether directly or indirectly, in *ex parte* communication with a judge presiding over such cases and controversies disturbs this method and fouls the application of reasoned resolutions. Since I believe in the jurisprudence of our society, the method by which we resolve cases and controversies, I do not engage in nor would I tolerate *ex parte* communications if I were a judge presiding over a dispute. Some cases and controversies, however, are not disputed, and an *ex parte* communication over a matter of a judge's preference in a procedural matter seems to be an instance in which an *ex parte* communication may be warranted, especially if the result of the communication is to avoid delay and preserve a judge's time. Moreover, in the case of an exigent circumstance that would justify an *ex parte* communication, e.g., an unexpected personal matter, or an unexpected emergency related to that attorney's client or another client, in which the communication is to advise the court of the circumstance would be acceptable so long as the communication is restricted to the particular circumstance and not the substance of the underlying dispute. I can envision, in these situations, the need to inform the Court of the exigent circumstance. However, I would expect that a lawyer in this kind of situation confirm that he or she has permission from the adverse party's counsel to make the *ex parte* communication, or that he or she will immediately inform the adverse party of the full extent of the *ex parte* communication. I would, however, encourage this type of communication be made to the Clerk of the Court or to the judge's law clerk and not to the judge directly.

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

before you?

My philosophy on recusal follows my belief in the jurisprudence that I believe in which I stated in the preceding answer. An interesting case recently decided by our Court of Appeals regarding recusal and the competing interest of the duty of a judge to hear cases assigned to him or her is found in *Simpson v. Simpson*, 377 S.C. 519, 523, 660 S.E.2d 274, 276 - 277 (S.C.App.,2008). There the Court reiterated that South Carolina's Code of Judicial Conduct states, "A judge shall avoid impropriety and the appearance of impropriety in all of the judge's activities." Canon 2 of the Code of Judicial Conduct, Rule 501, SCACR. The **277 Code requires a judge to "disqualify himself or herself in a proceeding in which the judge's impartiality might reasonably be questioned...." Canon 2 of the Code of Judicial Conduct, Rule 501, SCACR. When disqualification is not required, however, the Code states, "A judge shall hear and decide matters assigned to the judge...." Canon 3B(1) of the Code of Judicial Conduct, Rule 501, SCACR. "A judge's impartiality might reasonably be questioned when his [or her] factual findings are not supported by the record." *Patel*, 359 S.C. at 524, 599 S.E.2d at 118. The Court found "no evidence showing bias or prejudice." Then summarized the current law, as:

[5] [6] The party seeking disqualification must do more than merely allege bias on the judge's behalf; the party must present some evidence of judicial prejudice or bias. *Id.* at 524, 599 S.E.2d at 118. "In applying Canon 3 [(E)](1), the South Carolina Supreme Court has stated that the movant or petitioner must show some evidence of the bias or prejudice of the judge." *Lyvers v. Lyvers*, 280 S.C. 361, 367, 312 S.E.2d 590, 594 (Ct.App.1984) (internal quotations and citations omitted). When an appellant offers no evidence to support his claim of partiality, the trial judge is correct to deny a Motion for Recusal. See *Christensen v. Mikell*, 324 S.C. 70, 74, 476 S.E.2d 692, 694 (1996) ("Appellant offered no evidence to support his claim of partiality. Accordingly, the trial judge properly denied the Motion to Recuse.").

I find this case is instructive.

As to Lawyer-legislators:

Keeping the Simpson case in mind, I would not stereotype a lawyer-legislator as one, who by his position in the legislature, is going to disrupt the fair and reasonable application of the legal process. To the contrary, I believe that advocate (the lawyer-legislator) would be ever vigilant to avoid the appearance of impropriety because of his or her position. The central question to determine is whether the moving party for recusal can show any evidence of bias or prejudice. If there is evidence of bias or prejudice, I would recuse myself.

As to former associates:

The mere fact that a lawyer before me was a former associate of mine does not lead me to the conclusion that I should automatically recuse myself. In the event my former associate did not request recusal, I would, however, follow a procedure whereby a full disclosure to the opposing counsel was made, allow the adverse counsel to consider and advise his client of the potential for the appearance of impropriety. If there is no objection, I'd go forward. If there were an objection I'd recuse myself.

As to former partners:

In these instances I would recuse myself.

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?

In this situation, if recusal were requested, I would recuse.

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

I would recuse myself.

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

I will not accept gifts. Should a permissible gift be proffered, however, I would apply the standards set forth in the Code of Judicial Conduct set out in the South Carolina Rules of Court (Appellate Court Rules, Part V, with particular attention to Canon 4 D(5)). The key standard here is to avoid the appearance of impropriety, and avoid any gift, even if permitted, that would give rise to a perception that my integrity or independence would be compromised. Generally speaking, I would avoid receipt of gifts as I think it leads down a slippery slope. I would accept ordinary social hospitality. My family and I are not extravagant. I would be very uncomfortable with any kind of social hospitality that exceeded dinner at a friend's house or a social event among friends and colleagues, or a fishing trip on the local waters with a friend. Where appropriate and, in keeping with good social manners, I would pay my own way.

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

I would report misconduct of a lawyer or of a fellow judge that I became aware of, provided the definition of "became aware of" means I have personal knowledge of the misconduct.

11. Are you affiliated with any political parties, boards or commissions that, if you were elected, would need to be re-evaluated? NO

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

Yes. I would expect to continue as a member of the South Main Partners, LLC. This is a real estate investment company that owns

income producing property and one that I have invested in to augment retirement income.

13. If elected, how would you handle the drafting of orders?
I would follow the same practice that I have been accustomed to in the practice of law. If I am convinced of a position, I would ask counsel for the prevailing party to draft the order. In some instances, I may have the prevailing party submit the draft order to adverse counsel for review, and comment. In a complex case, which I take under advisement, I may ask both parties to submit a proposed order. In any event, I will read every Order proposed to me regardless of the drafter and make certain it comports with my decision.
14. If elected, what methods would you use to ensure that you and your staff meet deadlines?
I've worked fairly well with a calendaring system during my practice. I would implement a calendaring system giving due regard for the requirements imposed by Court Administration.
15. What is your philosophy on "judicial activism," and what effect should judges have in setting or promoting public policy?
My philosophy on "judicial activism" is that it has no place in our jurisprudence. The Judicial Code of Conduct requires a judge to respect and comply with the law. This is my philosophy. I would not create law but would, rather, only apply it to the best of my ability.
16. Canon 4 allows a judge to engage in activities to improve the law, legal system, and administration of justice. If elected, what activities do you plan to undertake to further this improvement of the legal system?
I have no plans at the moment. I will say that I enjoy writing, teaching and lecturing provided I have the time to do it effectively. So, if given the opportunity, especially after I get my 'feet on the ground', I could see myself giving a talk or teaching a law-related course. I would like, however, to appear before local bar associations to inform them on the status of the docket from time to time (outside the call of the docket and with time permitting) to suggest means by which the Bar could improve or facilitate matters in the system.
17. Do you feel that the pressure of serving as a judge would strain personal relationships (i.e. spouse, children, friends, or relatives)? How would you address this? NO
18. The following list contains five categories of offenders that would perhaps regularly appear in your court. Discuss your philosophy on sentencing for these classes of offenders.
- a. Repeat offenders:
My sentencing philosophy on repeat offenders is to give them sentences that reflect a full measure of the law. We should not tolerate repeat offenses in our society.
- b. Juveniles (that have been waived to the circuit court):
My sentencing philosophy regarding juveniles would be to give them

sentences that reflect a full measure of the law.

c. White collar criminals:

My sentencing philosophy regarding white collar criminals would be to give them sentences that reflect a full measure of the law.

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

My sentencing philosophy regarding criminals who come from a socially and/or economically disadvantaged background would be to give them sentences that reflect a full measure of the law.

e. Elderly defendants or those with some infirmity:

My sentencing philosophy regarding elderly criminal defendants would be to give them sentences that reflect a full measure of the law.

19. Are you involved in any active investments from which you derive additional income that might impair your appearance of impartiality? NO
20. Would you hear a case where you or a member of your family held a *de minimis* financial interest in a party involved? NO
21. Do you belong to any organizations that discriminate based on race, religion, or gender? NO
22. Have you met the mandatory minimum hours requirement for continuing legal education courses? YES
23. What do you feel is the appropriate demeanor for a judge?
Patient, calm, courteous, respectful of others, serious, firm.
24. Would the rules that you expressed in your previous answer apply only while you are on the bench or in chambers, or would these rules apply seven days a week, twenty-four hours a day? 24/7
25. Do you feel that it is ever appropriate to be angry with a member of the public, especially with a criminal defendant? NO Is anger ever appropriate in dealing with attorneys or pro se litigants? NO
26. How much money have you spent on your campaign? NONE If it is over \$100, has that amount been reported to the House and Senate Ethics Committees? N/A
27. If you are a sitting judge, have you used judicial letterhead or the services of your staff while campaigning for this office? N/A
28. Have you sought or received the pledge of any legislator prior to this date? NO
29. Have you sought or been offered a conditional pledge of support by any legislator pending the outcome of your screening? NO
30. Have you asked any third parties to contact members of the General Assembly on your behalf before the final and formal screening report has been released? NO Are you aware of any friends or colleagues contacting members of the General Assembly on your behalf? NO
31. Have you contacted any members of the Judicial Merit Selection Commission? NO
32. Are you familiar with the 48-hour rule, which prohibits a candidate from seeking pledges for 48 hours after the draft report has been submitted?

YES

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

s/James E. Chellis

Sworn to before me this 24th day of September, 2008.

Notary Public for S.C.

My Commission Expires: 5/17/2015 _____

JUDICIAL MERIT SELECTION COMMISSION
PERSONAL DATA QUESTIONNAIRE

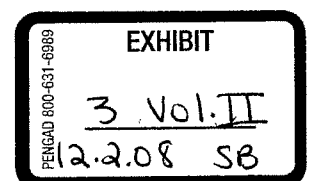
Court, Position, and Seat # for which you are applying: Eighth Circuit – Circuit Court Judge, Seat 2

1. NAME: Mr. Bryan C. Able
BUSINESS ADDRESS: 916 West Main Street
PO BOX 428
Laurens, SC 29360
BUSINESS NUMBER: (864) 984-6100
2. Date of Birth: 1961
Place of Birth: Greenwood, SC
3. Are you a citizen of South Carolina? Yes.
Have you been a resident of this state for at least the immediate past five years? Yes.
5. Family Status: Widowed June 15, 2000. Married on June 5, 2004, to Esther Ruth Myers Able. Never divorced. Three children.
6. Have you served in the military? No.
7. List each college and law school you attended, including the dates of your attendance, the degrees you received, and if you left an institution without receiving a degree, the reason for your departure.
 - (a) Lander College – August 1979 to May 1983 – B.S. Political Science;
 - (b) Univ. of South Carolina – August 1984 to May 1987 – 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 November 1987.
I took the bar exam once – July 1987.
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) Kappa Sigma Fraternity – Lambda Omega 1981-1983
Grand Master of Ceremonies;
 - (b) Lander College – Entertainment Council 1980-1981
Student Body Senate - 1981-1982
Cheerleader - 1980-1982.
10. Describe your continuing legal or judicial education during the past five years. Include only the title and date of any continuing legal or judicial education course completed.

Conference/CLE Name

Date(s)



- | | | |
|-----|--|-----------|
| (a) | Blues, Bar-B-Q, and Bar C-L-E | 07/11/08; |
| (b) | Handling the Auto Injury Claim | 06/20/08; |
| (c) | Handling a Social Security Disability Case | 06/17/08 |
| (d) | A Successful Law Practice | 05/19/06; |
| (e) | 2 nd Annual Blues, Bar-B-Q and | 07/14/06; |
| (f) | 2006 Public Defenders Conference | 09/25/06; |
| (g) | Blues, Bar-B-Q, and Bar C-L-E | 06/15/05; |
| (h) | 2005 SC Public Defender Conference | 09/26/05; |
| (i) | South Carolina Family Ct. Bench/Bar | 12/2/05; |
| (j) | SCDSS-OGC CLE Seminar | 9/17/04; |
| (k) | Hot Tips from the Coolest Domestic | 9/24/04; |
| (l) | Greenwood County Bar Seminar | 9/30/04; |
| (m) | Revised Lawyers Oath CLE | 9/24/04. |
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. None.
13. List all courts in which you have been admitted to practice and list the dates of your admission. Give the same information for administrative bodies that require a special admission to practice.
All courts of the State of South Carolina – Admitted November 1987.
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) | Culbertson, Whiteside & Turner – Associate 1987-1991 – General Practice; |
| (b) | Culbertson, Whiteside, Turner & Able – Partner – 1991-1996 General Practice; |
| (c) | Contract Attorney for the South Carolina Department of Social Services 1992 - September 2004; |
| (d) | Turner & Able – Partner – 1996-1999 – General Practice; |
| (e) | Turner, Able and Burney – Partner – 2000-2001 – General Practice; |
| (f) | Bryan C. Able, Attorney at Law – 2001 to present – General Practice; |
| (g) | Assistant Laurens County Public Defender - 2005 - 2006. |

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

- (b) If you are a candidate for Circuit Court, please provide a brief written description of your experience in criminal matters, including any cases handled over the past five years and include a brief description of the issues involved. Further, please provide a brief written description of your experience in civil matters, including any cases handled over the past five years and include a brief description of the types of matters

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

Over the past 21 years I have handled all aspects of criminal cases from beginning to jury verdict. I have attended preliminary hearings, negotiated with solicitors, prepared for trial, tried cases to jury verdicts and perfected appeals. In that time I have represented defendants charged with murder, assault and battering of a high and aggravated nature, unlawful carrying of a pistol, grand larceny more than \$5,000.00, lynching, burglary, criminal domestic violence of high and aggravated nature, criminal sexual conduct, kidnapping, resisting arrest, possession of unlawful handgun, forgery, possession of illegal video gaming machine, operating a gaming house, unlawful conduct toward a child, unlawful neglect by a legal guardian, impersonating a law enforcement officer, financial transaction card theft, malicious damage to personal property, armed robbery, disseminating obscenity, contributing to the delinquency of a minor, pointing and presenting a firearm, breaking in vehicles, distribution of crack cocaine, distribution of crack cocaine within proximity of a school or park, criminal conspiracy, breach of trust with fraudulent intent, failure to stop for law enforcement officer, possession of a stolen vehicle, distribution of a controlled substance, presenting a forged document, possession with intent to distribute marijuana, possession with intent to distribute marijuana within proximity of a school, filing a false police report, conspiracy to hunt turkeys, DUI 2nd offence and greater, possession of methamphetamines, receiving stolen goods, and arson. This list is representative and does not completely list all the types of cases I have handled in criminal court. Over the past five years I have handled in excess of 100 General Sessions Court cases.

As for my experience in civil court I have handled cases from the filing of initial pleadings through appeal. While handling civil cases I have prepared and filed pleadings, filed and argued pretrial motions, engaged in every form of pretrial discovery, interviewed clients and witnesses, prepared cases for trial, researched the issues of the case, tried cases, researched appealed issues and prepared and filed appellate briefs. During that time I have handled civil cases involving slip and fall, actions to set aside foreign judgments, personal injury (accident claims), wrongful death, medical malpractice, fraud, negligent misrepresentation, unfair trade practices, malicious

prosecution, unlawful arrest, intentional infliction of emotional distress, property line disputes, claim and delivery, assault and battery, collection of debts, action to set aside deeds, Probate Court Appeals, Zoning Board Appeals, Post Conviction Relief Applications and other issues. I have represented both Plaintiffs and Defendants in civil court.

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: 0%;
- (b) state: 100%.

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

- (a) civil: 5%;
- (b) criminal: 15%;
- (c) domestic: 80%.

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 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) State v. Howard Steven Davenport

94-GS-30-386; tried June 2, 1994 in the Laurens County Court of General Sessions.

Mr. Davenport was charged with unlawful possession of diazepam and possession with intent to distribute diazepam. The judge directed a verdict on the possession with intent to distribute diazepam charge and the jury returned a verdict of not guilty on the possession charge although Mr. Davenport admitted having diazepam in his possession that had not been prescribed to or for him;

(b) State v. Robert Jones

94-GS-30-629; tried in the Laurens County Court of General Sessions.

Mr. Jones was charged with committing or attempting a lewd act upon a child under fourteen. This case was significant because the defense moved to exclude a majority of the evidence introduced by the State pursuant to State v. Lyle;

- (c) Johnson v. Flaugher
90-CP-39-180; tried in the Pickens County Court of Common Pleas on August 13 and 14, 1991.
The nature of this case was based in common law master-servant and negligence. Plaintiff was injured while employed by defendant but was not covered by workers compensation. As a result the action was brought on the common law theory of master-servant and negligence. At trial the jury returned a verdict for plaintiff. Upon appeal, the issues submitted for review were whether the issue of contributory negligence could be decided as a matter of law without being submitted to the jury, whether the issue of assumption of risk could have been decided as a matter of law without being submitted to the jury, if the judge had given a proper charge on the issue of contributory negligence, whether the judges charge on the issue of permanent injury and the use of life expectancy (mortuary) table was proper and whether the jury's verdict was excessive;
- (d) Satterfield v. Dillard Department Stores, Inc.
97-CP-23-1431; tried in the Greenville County Court of Common Pleas on October 29, 1998.
This case was significant because the appellate court reviewed the issue of a party's right to amend pleadings pursuant to Rule 15 SCRPC and if allowing a late amendment of pleading was prejudicial to the other party;
- (e) In the case of Donnie L. Thacker
Claim for Period of Disability and Disability Insurance Benefits before the Social Security Administration.
I began representing Mr. Thacker on October 12, 1988 on his claim for Social Security Disability Benefits. After numerous hearings, reviews by the Appeals Council and an appeal to the United States District Court, Mr. Thacker was awarded his benefits by decision of the Administrative Law Judge on December 19, 2000.

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) Johnny Lee Johnson v. Phillip Flaugher – SC Supreme Court;
- (b) Jennifer Satterfield, by her Guardian Ad Litem, Pam Satterfield v. Dillard Department Store – SC Court of Appeals;
- (c) South Carolina Department of Social Services v. Jason Ihnatiuk et al. - SC Court of Appeals;
- (d) South Carolina Department of Social Services v. Jacqueline D. Sims et al. - SC Court of Appeals;
- (e) David A. Babb v. Betty Anne Scott et al. – SC Court of Appeals – Pending final decision.

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?
Yes – Appointed - Laurens City Judge - March 1991 – 1994;
Criminal Jurisdiction up to limit of statutory fine or Thirty (30) days in jail.
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. None.
24. Have you ever held public office other than judicial office? No.
25. List all employment you had while serving as a judge (whether full-time or part-time, contractual or at will, consulting or otherwise) other than elected judicial office. Specify your dates of employment, employer, major job responsibilities, and supervisor.
 - (a) 1987-1991 Culbertson, Whiteside & Turner – Associate/Attorney – General Practice – J. Mike Turner;
 - (b) 1991-1996 Culbertson, Whiteside, Turner & Able – Partner/Attorney – General Practice;
 - (c) 1992–September 2004 Contract Attorney for the South Carolina Department of Social Services. Providing legal services to the SC. Dept. of Social Services, Eighth Judicial Circuit. – County Directors of Laurens, Greenwood, Abbeville, Newberry Counties DSS offices.
26. Have you ever been an unsuccessful candidate for elective, judicial, or other public office? Yes – Solicitor, Eighth Judicial Circuit - 2004.
27. Have you ever been engaged in any occupation, business, or profession other than the practice of law, teaching of law, or holding judicial or other public office? Yes.
 - (a) District Executive – Blue Ridge Council, Boy Scouts of America;
 - (b) January 1984 – July 1984. Employment responsibilities included: fundraising, membership recruitment, volunteer recruitment and program coordinator for Greenwood and Abbeville Counties.
28. Are you now an officer or director or involved in the management of any business enterprise?
Yes – Bryan C. Able Attorney at Law – Providing legal services, day to day operations 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.
During my legal career I have been partners with four (4) other lawyers. Three of those lawyers are still practicing law and could appear before me if elected to the bench. I have not had a law partner since December 2001.

The manner by which I would resolve any potential conflict or appearance of partiality would be to disclose on the record that I had previously been a partner of one of the lawyers appearing before me but that I do not consider that fact a bias for disqualification. I would ask all parties or their lawyers if they desired that I disqualify myself. Based upon the response of the parties I would make a determination if my impartiality could reasonable be questioned. My initial inclination would be to disqualify myself if requested to do so.

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? No.
Have you ever defaulted on a student loan? No.
Have you ever filed for bankruptcy? No.
34. Have you ever been sued, either personally or professionally? Yes.
- a) Ronald A. Savage v. Rhett Burney,
Turner & Able Law Firm,
Bryan Able & Mike Turner, Laurens County Magistrates Court.
Civil Case Number 981722
Mr. Savage sued my partners and I individually and my law firm. The Complaint of Mr. Savage was dismissed by Judge James A. Davis upon motion of Defendants pursuant to Rule 12(b)(6) SCRPC on March 9, 1999. Mr. Savage's appeal to the Court of Common Pleas was abandoned;
- b) Victoria McDuell & Ernest McDuell, III v. Bryan C. Able as Personal Representative for the Estate of Lydia Blocker
Laurens County Court of Common Pleas, 03-CP-30-496
I was appointed personal representative of the Estate of Lydia Blocker for the sole purpose of allowing the case to be filed and litigated. There were no allegations of any negligence, misconduct or wrong doing against me personally or professionally;
- c) Annie W. Little v. Bryan C. Able as the personal Representative of the Estate of Fannie W. Hill, et al. Laurens County Court of Common Pleas, 06-CP-30-167
I was appointed personal representative of the Estate of Fannie W. Hill for the sole purpose of allowing the case to be filed and litigated. There were no allegations of any negligence, misconduct or wrong doing against me personally or professionally. I was dismissed as a

party by finding of the Special Referee that the pleadings of the case properly referred to Fannie W. Hill's children heirs and possible heirs;

- d) The First National Bank of Chicago as Trustee for BankBoston Home Equity Loan Trust 1998-1 v. Nancy C. Wilkerson, AmerUS Home Equity, Inc. and Bryan C. Able. Laurens County Court of Common Pleas, 05-CP-30-902.

This was a foreclosure action against Nancy C. Wilkerson. I was named as party because of possible claim or lien I may of held or had upon the real property that was subject of the lawsuit.

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? No.
- Have you received the assurance of any public official or public employee that they will seek the pledge of any member of the General Assembly as to your election for the position for which you are being screened? No.
43. Have you requested a friend or colleague to contact members of the General Assembly on your behalf? No. Are you aware of any friends or colleagues contacting members of the General Assembly on your behalf? No.

44. Have you or has anyone acting on your behalf solicited or collected funds to aid in the promotion of your candidacy? No.
45. Have you or has anyone acting on your behalf contacted members of the Judicial Merit Selection Commission about your candidacy or intention to become a candidate? No.
46. List all bar associations and professional organizations of which you are a member and give the titles and dates of any offices you have held in such groups.
 - (a) South Carolina Bar Association;
 - (b) South Carolina Association of Criminal Defense Lawyers.
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) Laurens Exchange Club;
 - (b) Rosemont Society of Laurens.
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) Tom Hardy
The Palmetto Bank
101 West Main Street
Laurens, SC 29360
864-984-8300;
 - (b) William J. Craine, Jr.
103 Leftbank Court
Laurens, SC 29360
864-984-3953;
 - (c) Barbara Wasson
516 Academy Street
Laurens, SC 29360
864-984-7416;
 - (d) Len Jo Bornemann
117 Creekside Court
Greenwood, SC 29649
864-229-7744;
 - (e) Gary C. Ray
106 Boulder Road
Mauldin, SC 29607
864-297-1242.

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/Bryan C. Able

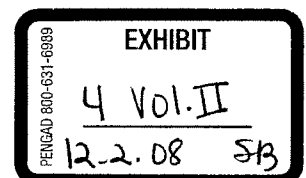
Date: 09/25/08

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

Circuit Court
(New Candidate)

Full Name: Bryan C. Able
Business Address: 916 West Main Street
PO BOX 428
Laurens SC 29360
Business Telephone: 864-984-6100

1. Why do you want to serve as a Circuit Court judge?
I want to be a Circuit Court judge because I believe I can do the job well. I believe I have the experience and the temperament to be a fair and impartial judge. My desire is to serve the State of South Carolina.
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 Constitutional requirements for this position regarding age, residence, and years of practice? Yes
5. What is your philosophy regarding *ex parte* communications? Are there circumstances under which you could envision *ex parte* communications being tolerated?
Ex Parte communication should be limited to only those exceptions enumerated in the Code of Judicial Conduct. The only circumstances under which I could envision *ex parte* communications being tolerated are those specifically authorized within the Code of Judicial Conduct or as expressly authorized by law.
6. What is your philosophy on recusal, especially in situations in which lawyer-legislators, former associates, or law partners are to appear before you?
In any case where a judge's impartiality might reasonable be questioned he should disqualify himself. The inquiry is if the judge's impartiality can *reasonably* be questioned. A litigant should not be allowed to simply question a judge's impartiality without reason so as to gain some tactical advantage such as delay of the proceedings.
In those situations where the judge has a personal bias or prejudice concerning a party's lawyer, such as a lawyer – legislator or former associate or law partner, the judge should recuse himself. A judge should recuse himself in all cases if the judge's impartiality might be questioned because of prior association with a party or a party's lawyer.
A judge may on a case-by-case basis and where circumstances warrant, ask the parties and their lawyers to consider whether to waive disqualification. This should be done only after the judge has disclosed on the record the basis of the judge's disqualification. Any discussion



between the parties and their lawyers to waive the disqualification should be out of the presence of the judge. The judge may participate in the proceedings thereafter if all parties agree to waive the disqualification and the judge is then willing to hear the matter.

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

In such a situation as described, the question for the judge is whether the judge's impartiality might reasonably be questioned after the disclosure of information the parties or their lawyers might consider relevant to the question of disqualification. The decision by the judge to recuse himself would have to be made based upon the facts and circumstances of each case where the judge's impartiality is questioned. If after disclosure by the judge a motion for recusal is made and the judge, while believing that no real basis for disqualification exist, should disqualify himself if he believes his impartiality might reasonably be questioned. If on the other hand, after the judge's disclosure of information and a motion is made for the judges recusal, the judge should not recuse himself if he does not believe his impartiality can reasonably be questioned given the facts of the particular case.

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

I would discuss with my spouse and members of my household that as a judge my financial activities and social involvement are regulated by certain and specific ethical constraints and considerations. I would further explain that because of their relationship with me and their living in my home that any conduct or their part that might call into question whether or not they acted appropriately in any financial or social situation might reflect negatively on my serving as a judge.

In addition, I would discourage family members from engaging in financial and business dealings that would give an appearance of exploiting my position as judge.

If I had knowledge that my spouse or family member were acting inappropriately in any financial or social situation that might reflect negatively on my service as a judge I would demand the activity be ended immediately

If I knew my spouse or close relatives had an economic or financial interest in the subject matter of a case before me or close social involvement with a party appearing in a case before me I would recuse myself in accordance with Code of Judicial Conduct.

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

I believe that in an effort to avoid all appearances of impropriety it would be best to limit the acceptance of gifts and social hospitality to only gifts

- from relatives or friends commensurate with a special occasion and ordinary social hospitality such as visiting in a relatives or friends home.
10. How would you handle a situation in which you became aware of misconduct of a lawyer or of a fellow judge?
If I had knowledge that a lawyer had committed a violation of the Rules of Professional Conduct that gave rise to a substantial question as to the lawyers honesty, trustworthiness, or fitness as a lawyer I would inform the appropriate authorities.
If I had knowledge that another judge has committed a violation of the Code of Judicial Conduct that gave rise to a substantial question as to that judge's fitness for office I would inform the appropriate authority.
11. Are you affiliated with any political parties, boards or commissions that, if you were elected, would need to be re-evaluated? No
12. Do you have any business activities that you would envision remaining involved with if elected to the bench?
I am co-owner of two (2) residential rental properties with a person I have been friends with for twenty years. I do not believe such business activities would pose any ethical problems if elected to the bench.
13. If elected, how would you handle the drafting of orders?
As a lawyer I have always drafted the orders for my cases when given the opportunity. I enjoy drafting orders and would hope to continue to do so as a judge when I found issues or a particular case to be interesting. However, realizing the time restraints on a judge I know I would not have time to draft many orders.
As a rule, I would request a prevailing party's lawyer to draft a proposed order including therein all relevant findings of fact and conclusions of law and would give notice to all parties of my request on the record at the conclusion of the hearing or in writing. I would also request that the lawyer requested to draft proposed order forward the order to all parties for review prior to it being submitted to me so as to give all parties opportunity to respond to the finding of fact and conclusion of law before the order is signed.
14. If elected, what methods would you use to ensure that you and your staff meet deadlines?
I would use a calendaring system to ensure that I and my staff meet deadlines. As a back up to the calendar I would use a electronic calendaring system if available or "tickler" system.
15. What is your philosophy on "judicial activism," and what effect should judges have in setting or promoting public policy?
It is the job and duty of a judge when construing a statute to ascertain the legislature's intent. A judge should not attempt to interpret a law in a way to limit or expand the legislative intent, but should read a statute giving each word their plain and ordinary meaning. A judge should not apply a law as he believes it should be but as the legislature intended it to be. To do anything else results in judicial activism that clearly invades the

responsibilities and duties of the legislative branch of government. It is not a judge's job to set or promote public policy. What one person may believe to be good public policy may be detested as abhorrent public policy by the next person. Public Policy is a matter of individual opinion that may change over time as result of many different factors. A judge should only recognize as public policy that which he can derive from a clear understanding of the law of the state. To do anything else would again invade the sole province of the legislature.

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

I believe the best way to improve the legal system is to educate the public about how the legal system operates. Most people rarely have dealings within the legal system and do not have any clear understanding of how the system works. In an effort to improve the legal system I would want to speak to local social groups and organizations upon request. Also, I would want to speak to school children about the judicial system and the role it plays in our government.

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

I do not feel the pressures of serving as a judge would strain my personal relationships. I lost my wife Mary to breast cancer in 2000. Mary and I had met in 1980 and married in 1984. After Mary's passing, I met my current wife "Toni" in 2001. We married in 2004. During the three years prior to our marriage Toni and I had ample time together to build a strong and lasting relationship. Since 2001, Toni and I have always dealt with each other openly and honestly. I know that if I am elected to the bench Toni and I will continue to talk to each other to discuss issues concerning our marriage and if my duties as a judge are straining that relationship. I truly believe my relationship with my wife is strong enough to withstand any strain created by my service as a judge.

As for my children, I don't believe there would be any stain in our relationship as a result of the pressures associated with being a judge. I have always been a very involved father and have spent a great deal of time with my children. My children are very supportive of my efforts to become a judge, and I have spoken with them all about the time and travel demands of serving as a circuit court judge.

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

a. Repeat offenders:

Repeat offenders display a willingness to continue to commit crimes although they have previously been before the court and should understand the consequences of their anti-social behavior. The repeat

offender should be judged more harshly than a first time offender. Repeat offenders should not look to me as a judge for probationary or minimal sentences. Repeat offenders should be sentenced more harshly within the dictates of the law and the circumstances of each case.

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

A juvenile defendant that has been waived from the jurisdiction of the Family Court to General Sessions Court has by statute been charged with a serious crime. Of course, the purpose of all criminal laws is to punish the offender when he breaks the law. In cases involving juvenile offenders I believe a judge should consider such factors as the child's age when the crime was committed, the crimes committed and if the crime were one of violence, as well as aspects of the child's family background. While the child should be punished in accordance with the controlling law I believe a judge should try to fashion punishment for a juvenile offender in such a way not only to punish but in hopes that the child can learn for his mistakes and lead a productive life as an adult.

c. White collar criminals:

As a judge I would make no distinction in the sentencing of white collar criminals as opposed to any other person that appears before me. White collar crimes can be and often are just as damaging to the victim(s) as are other crimes. I would sentence white collar criminals the same as others while at all times listening to all circumstances of mitigations.

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

I do not believe that simply because a person is from a socially or economically disadvantaged background he is more likely to commit a crime. I have no doubt that a persons background shapes how a person may view the world and that persons belief system. However, I believe a person's decision to commit a crime is his decision and he should not be allowed to rely on the excuse that he committed the crime because he is the product of a socially or economically disadvantaged background. To do so would mean a judge should view more harshly a defendant who commits a crime and has lived a life of social and economic advantages. Simply because a defendant is from a disadvantaged background does not in and of itself mean that a defendant should be viewed any differently that another defendant. A person's social and economic background is only one factor of many a judge should consider when sentencing a defendant.

e. Elderly defendants or those with some infirmity:

I believe that when sentencing the elderly or the infirmed a judge should consider each case on a case-by-case basis taking into consideration all factors presented at sentencing including any mitigating circumstances.

19. Are you involved in any active investments from which you derive additional income that might impair your appearance of impartiality? No
20. Would you hear a case where you or a member of your family held a *de*

minimis financial interest in a party involved?

The Code of Judicial Conduct would allow me as a judge to hear a case where I or a member of my family held a *de minimis* financial interest in a party involved.

21. Do you belong to any organizations that discriminate based on race, religion, or gender? No

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

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

I believe the most important characteristics for a judge to exhibit are patience and humility. Often a judge will have parties appear before him who are not represented and not versed in the rules of procedure and evidence. While a judge should not advise a pro se litigant on the rules of court or rules of procedure he should always be patient allowing anyone who appears before him to be heard fully. A judge should also be humble. He should remember that he is only one part of the system that is made up of many different people doing difficult jobs. The jobs being performed by others is no less important than the job being performed by the judge. The judge must be the one to move things forward but to do so while dealing with others in a courteous, efficient and firm manner.

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

Since I was a young man I have tried to set certain rules and guidelines by which I have tried to conduct myself when interacting with others. Most of these rules of conduct were learned from my parents growing up and from my affiliation with the Boy Scouts of America for most of my childhood.

I have always tried in my personal and professional life to be patient and humble. While I have not always succeeded to act as I would have liked, I do feel, that I have except for only a few occasions, acted and treated others in such a way to make my family proud. I was taught by my parents to always treat others as you would like to be treated. This idea has guided me everyday since childhood. I would know of no reason why that would change if elected to the bench.

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

I do not believe it is ever appropriate for a judge to express anger towards anyone he deals with in an official capacity. A judge can and should act firmly but not with anger. A judge can perform his duties without expressing anger. I believe that a judge that acts angrily with anyone diminishes the public's confidence in the judicial system because anger is an individual emotion and not representative of an impartial, unbiased judiciary represented by that individual.

26. How much money have you spent on your campaign? If it is over \$100, has that amount been reported to the House and Senate Ethics Committees? \$0.00
27. If you are a sitting judge, have you used judicial letterhead or the services of your staff while campaigning for this office? NA
28. Have you sought or received the pledge of any legislator prior to this date? No
29. Have you sought or been offered a conditional pledge of support by any legislator pending the outcome of your screening? No
30. Have you asked any third parties to contact members of the General Assembly on your behalf before the final and formal screening report has been released? Are you aware of any friends or colleagues contacting members of the General Assembly on your behalf? No
31. Have you contacted any members of the Judicial Merit Selection Commission? No
32. Are you familiar with the 48-hour rule, which prohibits a candidate from seeking pledges for 48 hours after the draft report has been submitted? Yes

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

s/Bryan C. Able

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

My Commission Expires:6/16/2016 _____

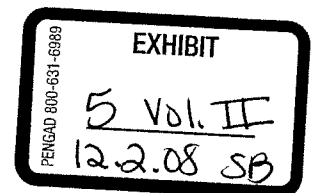
Notary Public for S.C.

**JUDICIAL MERIT SELECTION COMMISSION
PERSONAL DATA QUESTIONNAIRE**

Court, Position, and Seat # for which you are applying: 8th Circuit Court, Seat 2

1. NAME: Mr. Frank R. Addy, Jr.
BUSINESS ADDRESS: P.O. Box 1210
Greenwood, SC 29648
BUSINESS NUMBER: (864) 942-8625

2. Date of Birth: 1967
Place of Birth: Greenwood, SC
3. Are you a citizen of South Carolina? Yes.
Have you been a resident of this state for at least the immediate past five years? Yes.
5. Family Status: Married on September 6, 1997, to Kelly Sprouse Addy.
Never divorced. Two children.
6. Have you served in the military? N/A.
7. List each college and law school you attended, including the dates of your attendance, the degrees you received, and if you left an institution without receiving a degree, the reason for your departure.
 - (a) University of South Carolina
September, 1986 – May, 1990
BA, International Studies, cum laude; Phi Beta Kappa
(Minor – Business Administration);
 - (b) University of South Carolina School of Law
September, 1990 – May, 1993
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 November 15, 1993.
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 South Carolina
Student Government; Director, Students for a Better Carolina
Phi Beta Kappa;
 - (b) School of Law, University of South Carolina
Articles Editor, ABA Real Property, Probate & Trust Journal.
Moot Court Team Int'l, Advocate
President, International Law Society



Palmetto Law Society.

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

	<u>Conference/CLE Name</u>	<u>Date(s)</u>
(a)	2003 SC Bar Convention	01/24/03;
(b)	Probate Judges' Legislative Conference	03/25/03;
(c)	SC Trial Lawyers Assoc. Conference	08/07/03;
(d)	11 th Annual Probate Bench/Bar	09/12/03;
(e)	55 th Annual SC Assoc. of Probate Judges Conf.	09/21/03;
(f)	Probate Judges' Legislative Conference	02/02/04;
(g)	SC Assoc. Probate Judges, SCAC Conf.	08/05/04;
(h)	SC Trial Lawyers Assoc. Conf.	08/05/04;
(i)	Judicial Oath of Office	08/19/04;
(j)	12 th Annual Probate Bench/Bar	09/17/04;
(k)	Greenwood Bar – Revised Oath and Bar CLE	09/30/04;
(l)	56 th Annual SC Assoc. of Probate Judges Conf.	10/10/04;
(m)	2004 SC Bar Convention	01/21/05;
(n)	Probate Judges' Legislative Conference	02/28/05;
(o)	2005 Probate Judges/Court	05/06/05;
(p)	13 th Annual Probate Bench/Bar	09/16/05;
(q)	57 th Annual SC Assoc. of Probate Judges Conf.	09/21/05;
(r)	2006 SC Bar Convention	01/27/06;
(s)	SC Trial Lawyers Assoc. Conf.	08/03/06;
(t)	SC Assoc. of Judges, SCAC Conf.	08/04/06;
(u)	14 th Annual Probate Bench/Bar	09/15/06;
(v)	58 th Annual SC Assoc. of Probate Judges Conf.	10/04/06;
(w)	2007 SC Bar Convention	01/25/07;
(x)	Probate Judges' Legislative Conference	02/13/07;
(y)	Orientation School for New Probate Judges	03/15/07;
(z)	59 th Annual SC Assoc. of Probate Judges Conf.	09/09/07;
(aa)	15 th Annual Probate Bench/Bar	09/14/07;
(bb)	2008 SC Bar Convention	01/25/08;
(cc)	Probate Judges' Legislative Conference	02/05/08;
(dd)	16 th Annual Probate Bench/Bar	09/14/08;
(ee)	Judicial Selection in SC – SC Bar, SCWLA	09/17/08.

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

- (a) "Dual Diagnosis" October 9, 2001;
South Carolina Association of Probate Judges
Presentation addressing the problematic practical and procedural issues concerning stabilization and treatment of individuals who are mentally ill and also chemically dependent;

- (b) "New Probate Judge's School"
 SC Court Administration & SCAPJ, January 10, 2003 & March 15, 2007
 Planned topics, organized speakers and materials, and moderated the 2003 New Probate Judge's School. Personally addressed the topics of ethics and estate taxation at the 2003 and 2007 schools;
- (c) "Therapeutic Commitments – Jurisdictional Issues and Supplemental Proceedings"
 South Carolina Association of Probate Judges, August 6, 2004
 Lecture on the jurisdictional validity of commitment orders throughout the state and between states with additional discussion of supplemental proceedings when the person is non-compliant with the court's order;
- (d) "General Probate Issues"
 Greenwood County Bar, September 30, 2004
 Presentation was geared to the general practice lawyer who only occasionally practiced in probate and addressed the procedural aspects of a variety of common problems. Lecture included a discussion of recent changes in the law, disclaimers, omitted spouse vs. elective share petitions, conservatorships, wrongful death settlements, limitations of actions, and other matters;
- (e) "Creditor's Claim Presentment in the Probate Court"
 SC Morticians Assoc., October 24, 2004
 Presentation concerned the procedures law for presenting a claim against a decedent's estate;
- (f) 13th Annual Probate Bench/Bar, Course Planner and Moderator
 SC Bar CLE Division, September 16, 2005
 I planned and moderated the 2005 Bench/Bar and was subsequently told that the attendance for the event surpassed all previous probate bench/bar conferences;
- (g) "Temporary and Emergency Measures in Probate Proceedings"
 South Carolina Association of Probate Judges, September 25, 2005
 Procedural overview of Rule 65, SCRCP, governing temporary injunctions as compared to Section 62-3-607 governing emergency orders in the estate context and 62-5-310 governing appointment of emergency temporary guardians;
- (h) "The Probate Process and Presentation of Creditor's Claim in South Carolina's Probate Courts"
 South Carolina Oncology Association, May 18, 2006
 Presentation was a procedural overview of the process for probating an estate, presenting claims against an estate, and explanation of the time limits involved in both;
- (i) "Roundtable Discussion"
 South Carolina Association of Probate Judges, August 4, 2006

Served as a panel member and discussed hypothetical situations applicable to the courts;

(j) "Recent Issues in the Probate Court"

Greenwood County Bar, February 23, 2007

Presentation discussed the recent *Franklin* and *Brown* opinions concerning the unauthorized practice of law in the probate context and also addressed competency issues when a lawyer feels his client may be suffering from Alzheimer's dementia;

(k) "Probate Potluck – Round Table Discussion"

South Carolina Association of Probate Judges, September 12, 2007

Served as a panel member and discussed various probate topics and problems;

(l) "Involuntary Mental Illness Commitments"

SC Summary Court Judges Assoc., May 6, 2008

Presentation concerned the procedural and substantive law concerning involuntary commitments of persons suffering from mental illness and chemical dependency.

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

The Probate Bench Book

This book is a monumental project in the final stages of editing by me with the final version due to be released to the Probate Judge's Advisory Committee and Court Administration next month. The book addresses all aspects of the court's jurisdiction and procedures as well as substantive law.

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.

South Carolina Bar, admitted November 15, 1995

US District Court for South Carolina, admitted June 13, 1997 (inactive)

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

(a) Eighth Circuit Solicitor's Office

September, 1993 – February, 1997

Prosecuted all types of felony and misdemeanor cases, including homicide and serious felonies.

Promoted to Deputy Solicitor for Abbeville County during my tenure and successfully reduced Abbeville's pending docket from roughly 20 pages to 6 over the course of approximately 2 ½ years;

(b) Sheek, Addy & Medlock, PA

March, 1997 – February, 1998

Upon passing of my father, I engaged in general private practice including personal injury, domestic, and criminal cases;

- (c) Chief Public Defender for Greenwood and Abbeville Counties
February, 1998 – June, 1999
Responsible for defending clients charged in general sessions as well as juvenile court. Oversaw operation of the office and defended all manner of criminal cases;
- (d) Probate Judge for Greenwood County
June, 1999 – Present
Responsible for contested civil hearings concerning all aspects of the court's jurisdiction: estates, trusts, protective proceedings, and therapeutic commitments. Managed the case docket and successfully reduced delinquency in pending cases.
Served as Special Referee over the years for common pleas matters referred to me for trial or hearing;
- (e) Greenwood County Clerk of Court
June, 2003 – August, 2003
Upon the retirement of Greenwood's clerk of court and pursuant to state law, I assumed the role of acting clerk of court until the Governor made his appointment;
- (f) Acting Circuit Court Judge
September, 2006 – November, 2007
Presided over eleven (11) terms of circuit court by special appointment of the Chief Justice while Greenwood's resident judge was recovering from cancer. Presided over jury trials, guilty pleas, probation violations, motions, and addressed matters on the civil docket as well;
- (g) Judge of the Eighth Circuit Drug Court
August, 2008 – Present
Appointed by the Chief Justice on August 18, 2008 to serve as judge for the Eighth Circuit Adult Drug Court program. Will preside over and supervise drug court participants throughout their participation in the program, from accepting their guilty plea to completion of or termination from the program. Worked with Solicitor in establishing the program and crafting the model.

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

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

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

My experience in circuit court is unique among the candidates seeking this seat.

For the past two (2) years, I have served as circuit judge by order of special appointment while our resident circuit judge was recovering from cancer. In that time, I presided over guilty pleas, jury trials, motions, bond hearings, and probation revocations. In short, I have essentially handled same matters which come before a circuit judge on a daily basis. The unsolicited and discretely obtained feedback I received concerning my performance during this period was overwhelmingly positive.

Prior to my election to the bench, I was an assistant and deputy solicitor for roughly four (4) years and chief public defender for two (2) years. While serving as Deputy Solicitor, I successfully brought the pending case docket for the county I supervised down from over twenty (20) pages to fewer than six (6) pages. My desire and ability to move a backlogged docket, and then to keep the cases moving, would be of significant value on the civil side.

I have prosecuted and defended homicides, including death penalty, and I obtained a conviction on one of the first LWOP cases brought to trial. I have prosecuted or defended, in trial and via guilty plea, practically every criminal offense known, including rapes, drug offenses, assaults, robberies, and burglaries.

Concerning the civil matters which a circuit judge must hear and the civil docket which a circuit judge must administer, I have served as probate judge since 1999, and the trials in probate court require me to apply the same rules of evidence and procedure as are applied in the court of common pleas. Estate and trust matters involve application of the same principals of law and equity which apply in any civil case, and the stakes involved in most of the trials I hear are exceedingly high for the parties. In addition to complex and contested litigation concerning trusts and estates, I preside over often emotional cases concerning guardianships, conservatorships and involuntary commitments. I know that compassion is a necessary and invaluable characteristic for a judge, and I make every effort to render well-reasoned, thoughtful, and thorough decisions in all the cases I hear, regardless of the amount in controversy or the emotional context of the litigation.

Just as a circuit judge must run the civil docket, as judge for my court, I must also supervise my court's docket, keep cases moving, and ensure that matters under my supervision are addressed in a fair and procedurally correct manner. In short, as judge for my court, I have the

same responsibility for case and docket management as circuit judges do for their court, and I will be able to immediately apply my ten (10) years of experience to management of the civil docket.

Additionally, I have served as special referee for non-jury matters and hearings referred to me from the circuit court docket. These hearings require application of the same rules of civil procedure and the same principals as are applied under the circuit court's civil jurisdiction.

I also served as acting clerk of court upon the retirement of Greenwood's clerk. Many might characterize this job as purely ministerial, but I gained an appreciation for the inner workings of that office and the incredible management skills necessary to keep that office running. Our clerks of court are an indispensable asset to our courts, and no aspect of the law would function without their efforts.

Like most lawyers, I have also been in private practice, so I appreciate the demands on a lawyer's time, the pressures of running an office, and the stresses and obligations that lawyers face on a daily basis. While in private practice, my firm's practice area could best be described as general practice, handling civil, criminal, family and summary court cases. Although circuit judges must sometimes be firm with attorneys so that a docket keeps moving, judges should also have an appreciation for the rigors, demands, and stresses of private practice.

I have a judicial philosophy which has served me well for the last ten (10) years. A good judge is one who remains firm, yet retains compassion and empathy for the parties. One of the benefits in working with the public throughout my legal career is that I understand and truly appreciate that every case is special, emotional, and unique for those involved. For example, what one might characterize as "a simple wreck case" may only involve a few thousand dollars of damages, but for most citizens, the outcome of such a case is of significant importance to them, regardless of whether they are plaintiff or defendant. I fully appreciate the emotional character involved in most litigation, and for courts to remain credible to the public, the parties must feel that the court gave their side a full and fair hearing, decisions rendered must be correct and free of bias or political consideration, and most importantly, the court's verdict must represent a proper application of the law, as written, to the particular factual scenario. Judicial activism invites uncertainty for the parties and results in disparate application of the law from judge to judge.

I firmly believe that courts and judges face a public confidence problem when the law is not applied as written, when parties feel as if they did not have a full opportunity to be heard, or whenever a judge's decision appeared to be swayed by political considerations. Judges must also possess the demeanor necessary to treat all who come before them

with patience and respect, and such character must be present, practiced, and demonstrated daily.

In conclusion, my varied judicial and professional experience and my judicial demeanor have prepared me well for this position.

15. What is your rating in Martindale-Hubbell?

I am not rated in Martindale-Hubbell although there is a brief "Judge Profile" for me on their online listing. Having been a judge for the last ten years, I have never sought a Martindale-Hubbell rating since my current occupation does not depend upon client referral.

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

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

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

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

- (a) civil: 25%;
- (b) criminal: 65%;
- (c) domestic: 10%.

* I answer this question based upon the general period before I was elected to the bench. In my current judicial office, all cases are civil. As acting circuit judge from 2006-2007, most of the matters I handled were criminal, although I did address some civil matters during this period.

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%.

* I answer this question based upon the general period before I was elected to the bench. Although many probate cases go to trial, they are usually non-jury, and the most recent jury trials I oversaw were conducted when I served as circuit judge by appointment.

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

I served as sole counsel for the vast majority of my cases prior to election to the bench.

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. Darvin Wayne Allen (1999 Death Penalty case) This was a death penalty case wherein I represented the defendant. This case was challenging from a defense point of view in that the homicide happened

several years before Allen and his co-defendants were identified as suspects, and it was the co-defendants who gave inconsistent statements identifying Allen as the shooter. The police charged Allen subsequent to Allen being convicted of armed robbery of a Pizza Hut; that case involved several of the co-defendants who were alleged to be involved in the homicide.

Because of attorney-client privilege, I am not at liberty to discuss the factual information or legal preparation involved in this case. Suffice it to say, however, that our work in terms of investigation, research, and trial strategy was extensive and fruitful. I am certain that the first motion we made would have resulted in reversal on appeal had Allen been convicted.

Due to the strength of our preparation and despite previous resistance on the part of the victims and others to any plea which contemplated Allen's potential release from prison, we were able to obtain a favorable 20 year negotiated life plea for Allen early in the guilt phase, which was a positive result in light of the high potential for a verdict of death (assuming a conviction in the guilt phase).

- (b) State v. Keith A. Scurry, 322 S.C. 514, 473 S.E.2d 61 (S.C. App. 1996) (Armed Robbery case – made new case law and resulted in statutory law change) Armed robbery case which I prosecuted with only a few hours of preparation time (the solicitor assigned the case had an unexpected death in the family). Defendant robbed a convenience store with a lug wrench which he hid under a towel. The victim testified that she thought the concealed lug wrench was a gun. The defendant testified he brought the lug wrench into the store in the event he had to pry the cash register open. The defendant was convicted of armed robbery. The trial judge, sua sponte, vacated the conviction and imposed a conviction for common law robber under the justification that the defendant never intended to use the lug wrench as a deadly weapon. I sufficiently protected the record and appealed. The court's order was vacated and the sentence for armed robbery was imposed. This case also resulted in my contacting my local legislator who, with my encouragement, filed a bill to address situations in the armed robbery statute whereby a defendant would use a fake gun or verbally inform the victim that the defendant is armed with a deadly weapon. This bill was introduced and ultimately signed into law which changed the definition of armed robbery to specifically include representations of a deadly weapon, by word or by appearance.
- (c) Wallace v. Roach et al., In Re the Estate of John C. Wallace 01-ES-24-428 (Statute of Elizabeth, real property, and equitable issues) This case concerned an effort by judgment creditors to set aside a series of arguably defective deeds involving real property which the judgment creditors maintained had been executed in violation of the Statute of

Elizabeth. The defendant had misappropriated proceeds from the consignment sale of several RV's from numerous defendants. The property he owned had been arguably held in a trust of questionable validity prior to the subsequent transfers. The case, therefore, required application of complex real property law and equitable principals because of the number and questionable character of the transactions, and the outcome turned upon whether an express or resulting trust had been created as well as application of principals of real property law and equitable doctrines.

- (d) Carol Scurry v. R. Brooks Scurry, Jr. et al., In Re the Estate of R. Brooks Scurry, Sr. 98-ES-24-357 (2000) (Complex estate litigation) This case concerned a \$5 million federally taxable estate and a Will with a very complex funding formula for the various trusts. The issues surrounding the litigation concerned contractual duress, reformation of a Will, proper funding of generation skipping trusts, a marital deduction trust and the right to withdrawal, attorney's fees, right to contribution for a mortgage, removal of trustee, as well as other issues. This matter could have been certified as "complex litigation" if such a designation existed in the estate context.
- (e) State v. Willie James Ervin (One of the first applications of LWOP law) (1996) Co-counsel and I prosecuted this case which concerned the violent rape and kidnapping of a young woman by an individual who had a New Jersey conviction for rape, thereby making him eligible under the recently enacted LWOP statute. *See* Section 17-25-45. The charges arose shortly after South Carolina's adoption of the 2-3 Strike law which allows for the Solicitor to seek life imprisonment without parole for such defendants. This case was one of the first cases wherein this new penalty was applied, and a great deal of work was done both to obtain the conviction as well as to prove application of out-of-state law. The defendant remains in prison on the kidnapping charge. State v. Ervin, 333 S.C. 351, 510 S.E.2d 220 (S.C. App. 1998) (CSC rev'd on other grounds)
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. **If you are a candidate for an appellate court judgeship (please attach one copy of briefs filed by you in each matter).**
I have not handled a civil appeal.
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.
Aside from filing the notice of appeal in State v. Scurry, I have not personally handled a criminal appeal.
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.

- (a) Acting Circuit Court Judge
September, 2006 – November, 2007
Presided over eleven (11) terms of circuit court by special appointment of the Chief Justice (see question 2 of Personal Data Questionnaire Addendum for listing of specific terms of court). As a court of general jurisdiction, I presided over general sessions jury trials, guilty pleas, probation violations, motions, and addressed matters on the civil docket as needed or requested;
- (b) Probate Judge for Greenwood County
June, 1999 – Present
Appointed in June, 1999. Subsequently reelected without opposition in 2000, 2002, and 2006
Responsible for contested civil hearings concerning all aspects of the court's jurisdiction under Section 62-1-302 (Supp. 2005): decedent's estates, trusts, Article 5 protective proceedings, and therapeutic commitments under Title 44.
Served as Special Referee over the years for common pleas matters referred to me for trial or hearing. Jurisdiction was limited to deciding the issue pertaining to that particular matter referred to me;
- (c) Drug Court Judge, Eighth Circuit Adult Drug Court
Appointed August, 2008
Responsible for accepting guilty pleas, supervising, and presiding over all participants in the adult drug court program.
Please note that I intend to continue serving as drug court judge regardless of the outcome of my candidacy for seat 2.

23. If the answer to question 22 is yes, describe or list five of your most significant orders or opinions and give the citations if they were reported. Also list citations to any appellate review of these orders or opinions.

NOTE: I personally write around 95% of my opinions. Attached are examples of orders I issued in some of the following cases. All involved substantial issues even though the sums involved may not have been substantial. In answering this question, I have attempted to provide examples of the more complicated, interested, or emotionally charged cases on which I have ruled.

- (a) Wrenn, et al. v. Gillenwater, In Re the Estate of Janelle B. Smith, 06-ES-24-4 (September 12, 2008) This was a constructive trust case, and I provide it largely because it is the most recent example of my legal writing and because it clearly demonstrates the restraint a judge must exercise when hard facts invite a judge to question or misapply the law. This matter was a difficult case in that the facts cried out for a result which simply was not permitted under the law;
- (b) Walker v. McLeod, et al. 03-CP-24-1513 (December 30, 2005) I provide this order as an example of an order from a matter I handled as Special Referee. The case concerned a motion to set aside default and a damages hearing. Defendants acted *pro se*, but the case is significant

in that, after a full hearing at trial, it became apparent that the plaintiff had exaggerated the relief he was entitled to under a contract between himself and the defendants. This case represents a good example of how a disingenuous party may, at times, attempt to procedurally box-in a defendant, and courts should not permit a party to profit by their less than candid assertions prior to litigation;

- (c) Matthews v. Bryan, et al., In Re the Estate of Kay Matthews, 02-ES-24-22 This case involved a partition action and a petition to set aside a deed. I heard this case both as special referee under the jurisdiction of common pleas and as probate judge under the court's Title 62 jurisdiction. The plaintiff was the second spouse of decedent. This was an emotional case for the parties, largely because of criminal accusations involving the plaintiff and one of the defendant's children. Defendants were seeking partition of property which had been deeded out of their mother's estate and held as tenants in common between plaintiff and defendants. Plaintiff sought to set aside the deed to pay estate administrative expenses. Also involved in this case were issues of personal property, accounting for expenses, and valuation of estate assets;
- (d) Wallace v. Roach, et al., In Re the Estate of John C. Wallace (see Question 19 (c) for discussion of case);
- (e) State v. Jane Blackwell (2007 "Ware Shoals High Cheerleading Scandal" – case concerned competing concepts of legal ethics, first amendment, and media access): This case was a very high profile case with a great deal of national media attention. Imposition of a gag order is rarely done. In this case, it was necessary to preserve the integrity of the process and to prevent one party from trying the case in the media to the detriment of the other parties and the court system. Factually, the case concerned the cheerleading coach of Ware Shoals High School, Moore, who had allegedly provided alcohol to her cheerleaders and facilitated inappropriate sexual encounters between them and two national guard recruiters. Blackwell was the principal who allegedly knew of the improprieties and attempted to cover them up. Media attention on this case was very intense and lasted for several months after the story initially broke. Agents for the state and an attorney for Blackwell actively forwarded a great deal of information into the press concerning the allegations, subsequent investigations, and defenses. A member of Blackwell's defense team was arguably more active in allowing or encouraging media access to his client's case; he did have an arguable justification under Rule 3.6 (c) of Rule 407, SCACR. However, much of the recent information entering the media by Blackwell's counsel was very prejudicial to Moore, who had not been seeking media attention. In short, although the information was

beneficial to one defendant, it was damaging to the other parties involved.

The solicitor ultimately moved for a gag order on the grounds that the information being circulated by counsel for Blackwell would prejudice the jury pool in both Moore's and Blackwell's case. Many members of the print and television media were present for the hearing, and several news organizations entered an appearance and intervened opposing the motion. After weighing the potential prejudice to the parties, applicable 1st Amendment rights, and the ethical obligation of counsel, I granted the motion finding that the pretrial publicity posed a substantial likelihood of prejudice to all concerned parties. (Note that only the parties and their counsel were prevented from speaking to the media; the media, of course, was not subject to the order.)

Aside from the *Allen* case mentioned above, this was the second high-profile case I have handled, although I neither seek nor relish such publicity.

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?

My current judicial office is elected. I file my ethics commission reports in a timely fashion.

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?

From 1997 to 1998, I assisted my Grandparents with the family business after the passing of my Father. My Father and Grandparents had owned a jewelry store in Greenwood for 40 to 50 years; the store was a registered sub-S corporation. My Grandfather and I sold the business in 1998.

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.

Aside from my Father's trust, I am not involved in any business venture.

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 do not have any outstanding or ongoing business or professional relationships with any firms or attorneys which would require recusal. Presumably, a corporation in which I own stock could be a party to litigation, but when such situations have arisen in the past, the parties agree that I may hear the matter.

31. Have you ever been arrested, charged, or held by federal, state, or other law enforcement authorities for violation or for suspicion of violation of any federal law or regulation, state law or regulation, or county or municipal law, regulation, or ordinance, or any other law, including another country's law?

In June, 2005, I received a ticket in the City of Newberry for speeding under 10 miles over the limit, and I mailed in the fine of \$145.00 on or about June 20, 2005. I also assume that 2 points were also assessed against my driver's license.

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?

Aside from PCR matters, I have never been sued. My wife, however, is a defendant in a pending civil case in magistrate's court concerning a motor vehicle accident from years ago. The car involved in that accident was jointly titled in our names, but I am not listed as a party to that suit.

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, although while I was in college, I did serve as president of "Students for a Better Carolina," a student government organization whose purpose was to encourage members of the general assembly to fully fund USC. However, this was prior to enactment of lobbying reforms of the early and mid 1990's.

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 am unaware of any such charges or allegations.

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 am unaware of any such charges or allegations.
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.
2 rolls of stamps – purchased in mid and late August - \$84.00
1 roll of stamps – purchased on September 18, 2008 - \$42.00
1 ream of paper and envelopes – purchased late August - \$30.00
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. 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?
I have spoken with several members of the general assembly in the previous months concerning my candidacy, but I am aware of the prohibition on pledging at this stage of the process. Therefore, I have neither asked for nor received any pledge from any member of the General Assembly.
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?
Since deciding to run, I have had both solicited and unsolicited conversations with friends and colleagues who have offered to contact legislators on my behalf, but I have made the prohibition against pledging clear to those with whom I have spoken, and I received assurances that any contact with the legislature will be within the requirements of the law.
44. Have you or has anyone acting on your behalf solicited or collected funds to aid in the promotion of your candidacy? No.
45. Have you or has anyone acting on your behalf contacted members of the Judicial Merit Selection Commission about your candidacy or intention to become a candidate?
No.
46. List all bar associations and professional organizations of which you are a member and give the titles and dates of any offices you have held in such groups.
(a) South Carolina Bar Association, 1993 - present;
(b) President, SC Association of Probate Judges, 2005-2006;

- (c) SC Association of Probate Judges, 1999 – present;
 - (d) Chairman, Advisory Committee to the Chief Justice, 2001-2003.
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) Cub Scout Pack 222, den leader since 2005;
 - (b) IAAP Executive of the Year, 2003;
 - (c) Greenwood Masonic Lodge AFM #91 (since 1998);
 - (d) High School Moot Court Coach;
 - (e) Links at Stoney Point (social and pool membership);
 - (f) Greenwood Country Club (social, pool and tennis membership).

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 would like to share the reason that I have elected to file for this position. First, I am not running for this position out of a desire for prestige, money, power, or to otherwise better my personal station. My current judicial position more than adequately meets my personal, financial, and professional needs, and I have deliberated seriously on the implications for my family and myself in seeking this seat, because success in this endeavor would mean less freedom, a more exacting schedule, and substantial time away from my family.

My faith is very personal to me, and for that reason, I hesitate mentioning it, but being a person of faith I am running because I firmly believe that everyone is blessed with certain talents which are unique to that individual and that our obligation in this life is to apply those talents to our community's common betterment, in service to man and to our maker. Overall, I have enjoyed being a judge and practicing law, and I am confident that my unique talents and varied personal and professional experiences would serve the bench well.

Not only have I previously served in virtually all legal capacities in the circuit court, I have had a wide variety of other jobs which gives me insight into other occupations. I have trucked vinyl siding and worked in a warehouse; I traded bonds at one bank and processed cancelled checks at another; I have worked for an asbestos manufacturer and in a retail family business.

When my father passed away in 1997, I was still rather young. He and my grandparents owned a very successful retail jewelry store in Greenwood, and much of my youth was spent behind the counter of that store. At the time of my father's death, I was a Deputy Solicitor earning a very good income and truly enjoying prosecuting cases, so I did not relish having to leave and help my family with the store. If I made one mistake in this time period, it was in believing that I could practice law and help run a jewelry store at the same time; the law is truly a jealous mistress. However, leaving was not a mistake,

and I am glad I did what I did, both because I fulfilled an obligation, and because leaving set me on the path to seek this seat.

My greatest personal mentor was my father. My father was a very humble but fun man blessed with incredibly good judgment about things, and he gave me two pieces of advice which I value. First, do what you love. There is no reason to spend a third of your life working in a job you hate. Luckily, I enjoy the intellectual demands of being a judge, applying the law, and working with lawyers and the public to resolve their problems. I couldn't imagine doing anything else.

Second, "move your inventory." This is the most practical and true piece of professional advice I have ever received. You cannot make money in retail if your inventory doesn't sell. Similarly, courts break down if they can't move their cases. Docket backlogs have many causes, some of which are legitimate, but judges must consistently do everything they can to keep cases moving. Just as my father and grandparents succeeded in business because they succeeded in moving their inventory, a measure of a judge's success can be gauged by how well that judge manages to move their cases.

It is an undeserved honor for me to seek the seat which Judge Johnson held. He presided over the first complete trial I ever saw, and I remain in awe of his intellect, demeanor, and diligence. He and Jim Moore are my professional role models, and I hope that I may continue to serve and someday match their abilities.

49. References:

- (a) The Hon. Daniel Wideman
Sheriff of Greenwood County
528 Edgefield Street
Greenwood, SC 29646
(864) 942-8600;
- (b) W. Townes Jones, IV, Esq.
Attorney at Law
116 Court Avenue West
Greenwood, SC 29646
(864) 223-1111;
- (c) The Hon. E. Charles Grose, Jr.
600 Monument Street, Box P-133
Greenwood, SC 29646
(864) 229-9505;
- (d) Ms. Holly Bracknell
Wachovia Securities, 340-C Main Street
Greenwood, SC 29646
(864) 223-2211 (my banker / broker);

(e) Rev. Ken Timmerman
First United Methodist Church of Myrtle Beach
P.O. Box 1367
Myrtle Beach, SC 29578-1367
(843) 448-7164.

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/Frank R. Addy, Jr.

Date: 09/23/08

Frank R. Addy, Jr.
Candidate for Circuit Judge
Eighth Judicial Circuit, Seat 2

106 Arthur's Point
Greenwood, South Carolina 29649
Work (864) 942-8621
Home (864) 223-3714
Cell (864) 992-2144
frankaddy1@yahoo.com

November 26, 2008

Jane O. Shuler, Esquire
Judicial Merit Selection Commission
Post Office Box 142
Columbia, South Carolina 29202

Re: Amendments to Personal Data Questionnaire

Dear Ms. Shuler,

I would like to request the following corrections and additions to my Personal Data Questionnaire.

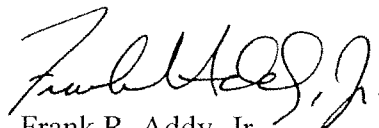
Question 13: The correct year of my admission to the South Carolina Bar is 1993.

Question 14: To provide additional information regarding my periodic service over the years as special referee for common pleas matters, I have heard cases concerning default judgments, damages hearings, contract matters, and partition actions.

Question 34: The traffic accident involving my wife took place on June 14, 2003 on Highway 702 in Ninety Six, South Carolina, and she was served with the summons and complaint on or about June 11, 2006. Per a letter from my wife's attorney dated December 28, 2006 and a recent call to her attorney, the case remains pending in magistrate's court in Greenwood County.

Thank you for your kind attention to these corrections.

Sincerely,


Frank R. Addy, Jr.

Frank R. Addy, Jr.
Candidate for Circuit Judge
Eighth Judicial Circuit, Seat 2

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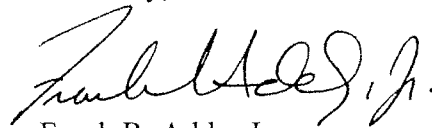
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