

UNITED STATES SENATE
COMMITTEE ON THE JUDICIARY

QUESTIONNAIRE FOR JUDICIAL NOMINEES

PUBLIC

1. **Name**: State full name (include any former names used).

Donald Wayne Beatty

2. **Position**: State the position for which you have been nominated.

United States District Judge for the District of South Carolina

3. **Address**: List current office address. If city and state of residence differs from your place of employment, please list the city and state where you currently reside.

South Carolina Supreme Court
1231 Gervais Street
Columbia, South Carolina 29211

4. **Birthplace**: State year and place of birth.

1952; Spartanburg, South Carolina

5. **Education**: List in reverse chronological order each college, law school, or any other institution of higher education attended and indicate for each the dates of attendance, whether a degree was received, and the date each degree was received.

1976 – 1979, University of South Carolina School of Law; J.D., 1979
1970 – 1974, South Carolina State University; B.A. (*cum laude*), 1974

6. **Employment Record**: List in reverse chronological order all governmental agencies, business or professional corporations, companies, firms, or other enterprises, partnerships, institutions or organizations, non-profit or otherwise, with which you have been affiliated as an officer, director, partner, proprietor, or employee since graduation from college, whether or not you received payment for your services. Include the name and address of the employer and job title or description.

2007 – present
South Carolina Supreme Court
1231 Gervais Street
Columbia, South Carolina 29211
Associate Justice

2003 – 2007

South Carolina Court of Appeals
1015 Sumter Street
Columbia, South Carolina 29211
Associate Judge

1995 – 2003

South Carolina Seventh Judicial Circuit
180 Magnolia Street
Spartanburg, South Carolina 29306
Circuit Court Judge

1991 – 1995

South Carolina General Assembly
1301 Gervais Street
Columbia, South Carolina 29211
Member of the House of Representatives

1990 – 1995

Beatty Law Firm (now defunct)
Gaffney, South Carolina
and
Spartanburg, South Carolina
Solo Practitioner

1994

Limestone College
1115 College Drive
Gaffney, South Carolina 29340
Adjunct Professor

1989 – 1990

Beatty, Vick and Tullis (now defunct)
Spartanburg, South Carolina
Partner

1988 – 1991

Spartanburg City Council
145 West Broad Street
Spartanburg, South Carolina 29306
Council Member

1981 – 1989

Beatty Law Firm (now defunct)
Spartanburg, South Carolina
Solo Practitioner

1979 – 1981

Neighborhood Legal Assistance Program (now defunct)

Conway, South Carolina

Associate

1976 – 1981

United States Army Reserve

Columbia, South Carolina

Captain

1974 – 1976

United States Army

Fort Benning, Georgia

Fort Harrison, Indiana

Second Lieutenant

Other Affiliations (uncompensated unless otherwise indicated):

2000 – 2012

Mount Moriah Baptist Church

445 South Church Street

Spartanburg, South Carolina 29304

Trustee

2004 – 2005

Boys & Girls Club of Metro Spartanburg

901 South Pine Street

Spartanburg, South Carolina 29302

Board Member

1994 – 1995

Branch Banking & Trust Advisory Board

1461 East Main Street

Spartanburg, South Carolina 29306

Board Member (compensated)

1994

BMW Minority Advisory Board/BMW Construction Project

1400 Highway 101 South

Greer, South Carolina 29651

Board Member

1991 – 1993

Piedmont Legal Services

148 East Main Street

Spartanburg, South Carolina 29306
Board Member

7. **Military Service and Draft Status:** Identify any service in the U.S. Military, including dates of service, branch of service, rank or rate, serial number (if different from social security number) and type of discharge received, and whether you have registered for selective service.

1976 – 1981
United States Army Reserve
Captain
Honorably Discharged

1974 – 1976
United States Army
Second Lieutenant
Honorably Discharged

8. **Honors and Awards:** List any scholarships, fellowships, honorary degrees, academic or professional honors, honorary society memberships, military awards, and any other special recognition for outstanding service or achievement.

South Carolina Association for Justice Portrait Award (2013)
South Carolina Black Lawyers Association's Matthew J. Perry Award for Community Service (2013)
South Carolina State University Stellar Alumni Award (2012)
Seventh Circuit Solicitors' Service Award (2010)
Urban League of the Upstate Humanitarian Award (2009)
Community Weavers Award (2008)
National Bar Association Superior Achievement Award (2008)
Spartanburg County Bar Association Portrait Award (2008)
Spartanburg County Black History Month "Together We Rise" Program Award (2008)
Benedict College Profile in Leadership Award (2007)
Charleston School of Law Black Law Students Association Achievement Award (2007)
City of Spartanburg Achievement Award (2007)
Greenville County Bar Association "Vision of Hope" Award (2007)
Honorary Doctor of Laws, South Carolina State University (2007)
National Association for the Advancement of Colored People Living Legend Award (2007)
Epsilon Nu Chapter, Omega Psi Phi Man of the Year Award (2006)
South Carolina Business Network Vision Award (1996)
Spartanburg Progressive Men's Club Community Service Award (1996)

9. **Bar Associations:** List all bar associations or legal or judicial-related committees, selection panels or conferences of which you are or have been a member, and give the titles and dates of any offices which you have held in such groups.

American Bar Association (2010 – present)
 American Law Institute (2015 – present)
 Committee to Review South Carolina Drug and Common Laws (1994)
 Committee to Study Access to Public Records (2012 – present)
 National Black Lawyers Association (2006 – 2013)
 South Carolina Access to Justice Commission (2013 – present)
 South Carolina Bar Association (1979 – present)
 South Carolina Black Lawyers Association (1983 – present)
 South Carolina Commission on Continuing Legal Education
 Appellate Court Member (2014 – present)
 South Carolina General Sessions Docket Management Study Committee
 Chairperson (2014 – present)
 South Carolina Legislative Black Caucus (1990 – 1995)
 South Carolina Sentencing Reform Commission
 Workgroup 1 (2010 – present)
 South Carolina Seventh Circuit Fee Dispute Resolution Committee (1994)

10. Bar and Court Admission:

- a. List the date(s) you were admitted to the bar of any state and any lapses in membership. Please explain the reason for any lapse in membership.

South Carolina Bar, 1979

There has been no lapse in membership.

- b. List all courts in which you have been admitted to practice, including dates of admission and any lapses in membership. Please explain the reason for any lapse in membership. Give the same information for administrative bodies that require special admission to practice.

United States District Court for the District of South Carolina, 1987

There has been no lapse in membership.

11. Memberships:

- a. List all professional, business, fraternal, scholarly, civic, charitable, or other organizations, other than those listed in response to Questions 9 or 10 to which you belong, or to which you have belonged, since graduation from law school. Provide dates of membership or participation, and indicate any office you held. Include clubs, working groups, advisory or editorial boards, panels, committees, conferences, or publications.

BMW Minority Advisory Board/BMW Construction Project (1994)

Board Member (1994)
 Boys & Girls Club of Metro Spartanburg (2004 – 2005)
 Board Member (2004 – 2005)
 Branch Banking & Trust Advisory Board (1994 – 1995)
 Board Member (1994 – 1995)
 Medical Military/Public and Municipal Affairs Committee (1990 – 1991)
 Mount Moriah Baptist Church (2000 – 2012)
 Trustee (2000 – 2012)
 Multi-Agency Task Force on Continued Operation of Courts in a Catastrophic Situation (2011– Present)
 National Association for the Advancement of Colored People (1985)
 Omega Psi Phi Fraternity, Incorporated (1971 – present)
 Chapter President (1990)
 Piedmont Legal Services (1991 – 1993)
 Board of Directors (1991 – 1993)
 Rotary International (1993)
 Sigma Pi Phi Fraternity, Incorporated (2008 – present)
 South Carolina Annual Judicial Conference Planning Committee (2009, 2013, 2016)
 South Carolina State House of Representatives Correctional Systems Study Committee (1994 – 1995)
 South Carolina State House of Representatives Judiciary Committee (1991 – 1992)
 South Carolina State House of Representatives Legislative Black Caucus (1990 – 1995)
 Chairman (1995)
 South Carolina Legislative Black Caucus (1990 – 1995)
 Chairman-Elect (1995)
 Vice-Chairman (1993 – 1994)
 South Carolina State House of Representatives Legislative Ethics Committee (1992 – 1995)
 Southside Development Committee (1990 – 1991)
 Co-Chair (1990 – 1991)
 Southside Neighborhoods Association Partnership (1989 – 1991)
 Spartanburg Chamber of Commerce (1985 – 1990)
 Spartanburg Development Council (1989 – 1990)
 Spartanburg Progressive Men's Club (1990 – 1993)
 Parliamentarian (1991)
 Spartanburg Residential Development Corporation (1988 – 1991)
 Task Force on Access to Public Information (2008 – present)

- b. The American Bar Association's Commentary to its Code of Judicial Conduct states that it is inappropriate for a judge to hold membership in any organization that invidiously discriminates on the basis of race, sex, or religion, or national origin. Indicate whether any of these organizations listed in response to 11a above currently discriminate or formerly discriminated on the basis of race, sex, religion

or national origin either through formal membership requirements or the practical implementation of membership policies. If so, describe any action you have taken to change these policies and practices.

The Omega Psi Phi Fraternity, Incorporated, the Sigma Pi Phi Fraternity, Incorporated, and the Spartanburg Progressive Men's Club limit their membership to men. It is my belief that at some point in its history, Rotary International restricted its membership to men; however, that was not the case during my participation as a member. To my knowledge, none of the other organizations listed above currently discriminates or formerly discriminated on the basis of race, sex, religion, or national origin, either through formal membership requirements or the practical implementation of membership policies.

12. Published Writings and Public Statements:

- a. List the titles, publishers, and dates of books, articles, reports, letters to the editor, editorial pieces, or other published material you have written or edited, including material published only on the Internet. Supply four (4) copies of all published material to the Committee.

None.

- b. Supply four (4) copies of any reports, memoranda or policy statements you prepared or contributed in the preparation of on behalf of any bar association, committee, conference, or organization of which you were or are a member. If you do not have a copy of a report, memorandum or policy statement, give the name and address of the organization that issued it, the date of the document, and a summary of its subject matter.

As a member of the Joint Legislative Committee on Judicial Screening, I participated in the preparation of screening reports for judicial candidates in 1993 and 1994. These reports represented the committee's findings on the qualifications of each candidate. Copies of the reports that I have located, which may not encompass all that were issued, may be found at the following links:

http://www.scstatehouse.gov/sess110_1993-1994/sj94/19940211.htm

http://www.scstatehouse.gov/sess110_1993-1994/hj94/19940113.htm

http://www.scstatehouse.gov/sess110_1993-1994/sj93/19930518.htm.

Although I did not draft or edit the report of the South Carolina Sentencing Reform Commission, I participated in one of three workgroups tasked with providing recommendations to the General Assembly as to appropriate changes of sentencing guidelines, the parole system, and legislation for offenders for whom traditional imprisonment was not considered appropriate. These meetings were open to the public, but I have no notes, transcripts or recordings. A copy of the Commission's 2010 Report is supplied.

- c. Supply four (4) copies of any testimony, official statements or other communications relating, in whole or in part, to matters of public policy or legal interpretation, that you have issued or provided or that others presented on your behalf to public bodies or public officials.

During the course of my election for the positions of circuit court judge, judge for the South Carolina Court of Appeals, and justice for the South Carolina Supreme Court, I filled out candidate questionnaires. The South Carolina Legislature's Judicial Merit Selection Commission prepared reports that included my questionnaire responses and an evaluation of my qualifications for each position. After a diligent search of my records and the Internet, I have been able to locate the following Judicial Candidate Screening Reports:

Report of Candidate Qualifications (January 19, 2010). Copy available at <http://www.scstatehouse.gov/JudicialMeritPage/ReportonCandidatestoMembersofGA.php>.

Report of Candidate Qualifications (May 3, 2007). Copy available at <http://www.scstatehouse.gov/JudicialMeritPage/ReportonCandidatestoMembersofGAArchives.php>.

Report of Candidate Qualifications (January 21, 2003). Copy available at <http://www.scstatehouse.gov/JudicialMeritPage/ReportonCandidatestoMembersofGAArchives.php>.

Report of Candidate Qualifications (January 11, 2000). Copy available at <http://www.scstatehouse.gov/JudicialMeritPage/ReportonCandidatestoMembersofGAArchives.php>.

Report of Candidate Qualifications (May 23, 1995). Copy available at <http://www.scstatehouse.gov/JudicialMeritPage/ReportonCandidatestoMembersofGAArchives.php>.

As a candidate for the South Carolina Supreme Court, I testified before the Judicial Merit Selection Commission for the South Carolina Legislature on November 2, 2009. Transcript, personal data questionnaire, and sworn statement supplied.

As a member of the South Carolina Supreme Court, I participated in a special term called for the purpose of conducting a public hearing on access to justice on November 5, 2008. Transcript supplied.

As a candidate for the South Carolina Supreme Court, I testified before the Judicial Merit Selection Commission for the South Carolina Legislature on April 17, 2007. Transcript, personal data questionnaire, and sworn statement supplied.

As a candidate for the South Carolina Court of Appeals, I testified before the Judicial Merit Selection Commission for the South Carolina Legislature on December 2, 2002. Transcript, personal data questionnaire, and sworn statement supplied.

As a candidate for Circuit Court Judge of the Seventh Judicial Circuit, I testified before the Judicial Merit Selection Commission for the South Carolina Legislature on May 10, 1995. Press coverage supplied.

While serving in the South Carolina House of Representatives from 1991 to 1995, I sponsored four bills. I sponsored legislation to limit the finance charge for policies or contracts of insurance in South Carolina; to prohibit the use of a credit report as a basis for refusing to issue or renew any policy or contract of insurance in South Carolina; to amend the code so as to provide that any person who has failed to obtain a general or mechanical contractor's license could not bring suit to enforce the provisions of any contract for general or mechanical contracting entered into in violation of law; and related to the financing for seven local school districts in Spartanburg County.

As a state representative, I also was one of many co-sponsors on 182 bills and 149 resolutions, and the subject matters of all co-sponsored bills and resolutions are available by reference to transcripts of public sessions. Although I was listed as a sponsor or co-sponsor on these bills and resolutions, I spoke in favor of them only when necessary. Representative press coverage is supplied, and transcripts of public sessions and other documentation bearing my name for the South Carolina House of Representatives between 1991 and 1995 may be found at <http://www.scstatehouse.gov/ajournal.php>.

As co-chair of the Southside Development Committee from 1990 to 1991, I attended and spoke at public meetings regarding the development of a subsection of the city on an as-needed basis, typically about once per month. I have no notes, transcripts, or recordings.

While serving as a member of the Spartanburg City Council from 1988 to 1991, I participated in nearly all of the bi-weekly meetings of the City Council. Any remarks that I made during these meetings were extemporaneous and not from written text. During my four years on the City Council, I advocated for municipal ordinances and resolutions that included, but were not limited to, providing oversight for City budget decisions, establishing and procuring financing for a residential development corporation, and engineering a \$1 million grant to build homes in the City. Representative press coverage supplied.

- d. Supply four (4) copies, transcripts or recordings of all speeches or talks delivered by you, including commencement speeches, remarks, lectures, panel discussions, conferences, political speeches, and question-and-answer sessions. Include the date and place where they were delivered, and readily available press reports

about the speech or talk. If you do not have a copy of the speech or a transcript or recording of your remarks, give the name and address of the group before whom the speech was given, the date of the speech, and a summary of its subject matter. If you did not speak from a prepared text, furnish a copy of any outline or notes from which you spoke.

After carefully reviewing my records and public databases, I have provided information on the events that I can recall. Many of the talks were impromptu, and I frequently do not have any written materials for those events. Moreover, even where I have written remarks or a prepared speech, I rarely read them verbatim. Rather, I use them merely as a catalyst to remember the points of the presentation. Where available, I have supplied copies of the written remarks or outlines that I used for the following speaking engagements:

January 29, 2016: Panelist, "The Importance of Access to Justice to the Judiciary," Legal Services Corporation Board Meeting, Charleston, South Carolina. I participated in a discussion regarding the Access to Justice Commission. I have no notes, transcript or recording. The address for the Legal Services Corporation is 3333 K Street Northwest, Washington, District of Columbia 20007.

January 4, 2016: Panelist, "Bridge the Gap" Continuing Legal Education Seminar, South Carolina Bar, Charleston, South Carolina. I participated in a discussion regarding appellate procedure. I have no notes, transcript or recording. The address for the South Carolina Bar is Post Office Box 608, Columbia, South Carolina 29202.

April 2, 2015: Speaker, Reception, Donald James Sampson Bar Association, Greenville, South Carolina. I thanked host Womble Carlyle for the firm's continued support of diversity in upstate South Carolina. I have no notes, transcript or recording. The address of the Donald James Sampson Bar Association is 200 East Broad Street, Greenville, South Carolina 29601.

September 29, 2014: Panelist, Annual Youth Legislative Conference, South Carolina Legislative Black Caucus, Columbia, South Carolina. I participated in a discussion regarding the history of the legislature. I have no notes, transcript or recording. The address for the South Carolina Legislative Black Caucus is 207 Solomon Blatt Building, Columbia, South Carolina 29211.

July 11, 2014: Administer of Oath, "Oath of Office," Greenville County Courthouse, Greenville, South Carolina. I administered the oath for Magistrate Court Judge to Seldon Peden during his investiture. I have no notes, transcript or recording. The address for the Greenville County Courthouse is 301 East North Street, Greenville, South Carolina 29611.

April 24, 2014: Moderator, "The African American Community: Where Do We

Go from Here,” Omega Psi Phi Fraternity, Incorporated, Spartanburg, South Carolina. I was the moderator for a public forum. I have no notes, transcript or recording. The address for the Omega Psi Phi Fraternity, Incorporated is 3951 Snapfinger Parkway, Decatur, Georgia 30035.

March 25, 2014: Administer of Oath, “Oath of Office,” South Carolina Probation, Parole, and Pardon Services, Spartanburg, South Carolina. I administered the oath to three South Carolina Probation Agents. I have no notes, transcript or recording. The address for the South Carolina Probation, Parole, and Pardon Services is 2221 Devine Street, Suite 600, Columbia, South Carolina 29250.

March 2014: Judge, J. Woodrow Lewis Moot Court Competition Finals, University of South Carolina Law School, Columbia, South Carolina. I was one of five jurists presiding during the competition. I have no notes, transcript or recording. The address for the University of South Carolina School of Law is 701 Main Street, Columbia, South Carolina 29208.

February 22, 2014: Guest Speaker, “Black History,” Monks Grove Baptist Church Spartanburg, South Carolina. Notes supplied.

November 18, 2013: Speaker, Bar Swearing-In Ceremony, South Carolina Supreme Court, Columbia, South Carolina. Notes supplied.

September 27, 2013: Speaker, Jonathan Jasper Wright Marker Unveiling, South Carolina Historical Society, Charleston, South Carolina. I was one of multiple speakers who were assigned to speak on a different segment of Justice Wright’s life. I have no notes, transcript or recording. The address for the South Carolina Historical Society is 100 Meeting Street, Charleston, South Carolina 29401.

September 25, 2013: Speaker, 2013 Fall Conference, South Carolina Association of Clerks of Courts and Registers of Deeds, Spartanburg, South Carolina. I gave the welcome speech during the opening session luncheon for the attendees of the conference. I have no notes, transcript or recording. The address for the South Carolina Association of Clerks of Courts and Registers of Deeds is Post Office Box 8207, Columbia, South Carolina 29202.

September 23, 2013: Presenter, “Power of the Solicitor,” South Carolina Solicitor’s Association, Myrtle Beach, South Carolina. Outline and press coverage supplied.

August 22, 2013: Speaker, South Carolina Annual Judicial Conference, South Carolina Supreme Court, Columbia, South Carolina. I gave opening and closing remarks, but do not recall the specific content of my remarks. I have no notes, transcript or recording. The address for the South Carolina Supreme Court is 1231 Gervais Street, Columbia, South Carolina 29211.

August 3, 2013: Portrait Recipient, 2013 Convention, South Carolina Association for Justice, Hilton Head, South Carolina. I was the honoree of the portrait commissioned by members of the Association. After the presentation of the portrait, I gave a short speech to thank the members for the honor. I have no notes, transcript or recording. The address for the South Carolina Association for Justice is 1901 Gadsden Street, Columbia, South Carolina 29201.

July 15, 2013: Panelist, 2013 Annual Convention CLE, National Association for the Advancement of Colored People (NAACP), Orlando, Florida. I participated in a panel discussion on "Stand Your Ground" laws. I have no notes, transcript or recording. The address for the National Association for the Advancement of Colored People (NAACP) is 4805 Mount Hope Drive, Baltimore, Maryland 21215.

June 27, 2013: Administer of Oath, "Oath of Office," Spartanburg County Courthouse, Spartanburg, South Carolina. I administered the oath for Circuit Court Judge to Keith Kelly during his investiture. I have no notes, transcript or recording. The address for the Spartanburg County Courthouse is 180 Magnolia Street, Spartanburg, South Carolina 29306.

May 4, 2013: Guest Speaker, "Fatherhood," Fatherhood Coalition, Darlington, South Carolina. Notes supplied.

March 28, 2013: Guest Speaker, "Enhancing the Dream," University of South Carolina Black Law Students Association, Columbia, South Carolina. Notes supplied.

November 9, 2012: Presenter, "State of the Judiciary," South Carolina Defense Trial Attorneys' Association, Kiawah Island, South Carolina. Notes and PowerPoint supplied.

July 25, 2011: Administer of Oath, "Oath of Office," Spartanburg Municipal Court, Spartanburg, South Carolina. I administered the oath for Municipal Court Judge to Erika McJimpsey. I have no notes, transcript or recording. The address for the Spartanburg Municipal Court is 145 Broad Street, Spartanburg, South Carolina 29306.

March 6, 2011: Guest Speaker, "The Measure of a Man," Silver Hill Memorial United Methodist Church, Spartanburg, South Carolina. Notes supplied.

February 11, 2011: Administer of Oath, "Oath of Office," Seventh Circuit Solicitor, Spartanburg, South Carolina. I administered the oath for South Carolina Seventh Circuit Solicitor to Barry Barnette. I have no notes, transcript or recording. The address for the Seventh Circuit Solicitor is 180 Magnolia Street, Spartanburg, South Carolina 29306.

July 1, 2010: Administer of Oath, "Oath of Office," Cherokee County Family Court, Gaffney, South Carolina. I administered the oath for South Carolina Seventh Circuit Family Court Judge to Usha Bridges. I have no notes, transcript or recording. The address for the Cherokee County Family Court is 125 East Floyd Baker Boulevard, Gaffney, South Carolina 29340.

May 6, 2010: Speaker, "The Importance of The Constitution and the Rule of Law," Law Day Portrait Unveiling at the Spartanburg County Courthouse, Spartanburg County Bar Association, Spartanburg, South Carolina. I have no notes, transcript or recording. The address for the Spartanburg County Bar Association is Post Office Drawer 1897, Spartanburg, South Carolina 29304.

March 8, 2010: Administer of Oath, "Oath of Office," Spartanburg County Courthouse, Spartanburg, South Carolina. I administered the oath for Spartanburg County Clerk of Court to Hope Blackley. I have no notes, transcript or recording. The address for the Spartanburg County Courthouse is 180 Magnolia Street, Spartanburg, South Carolina 29306.

February 12, 2010: Panelist, Year-End CLE, Greenville County Bar Association, Greenville, South Carolina. I participated in the discussion on diversity in the legal profession in South Carolina. I have no notes, transcript or recording. The address for the Greenville County Bar Association is Post Office Box 10145, Greenville, South Carolina 29603.

January 15, 2010: Keynote Speaker, "Dr. Martin Luther King, Jr. Annual Memorial Breakfast Celebration," City of Greenville and Carolina First Center, Greenville, South Carolina. I spoke about Dr. King's legacy. I have no notes, transcript or recording. The address for the City of Greenville is 206 South Main Street, Greenville, South Carolina 29601.

September 18, 2009: Panelist, James Otis Lecture Series, American Board of Trial Attorneys, Columbia, South Carolina. I participated in a panel discussion about the United States Constitution. I have no notes, transcript or recording. The address for the American Board of Trial Attorneys is 2001 Bryan Street, Suite 3000, Dallas, Texas 75201.

August 20, 2009: Speaker, South Carolina Annual Judicial Conference, South Carolina Supreme Court, Columbia, South Carolina. I gave opening and closing remarks, but do not recall the specific content of my remarks. I have no notes, transcript or recording. The address for the South Carolina Supreme Court is 1231 Gervais Street, Columbia, South Carolina 29211.

July 13, 2009: Administer of Oath, "Oath of Office," Spartanburg Municipal Court, Spartanburg, South Carolina. I administered the oath for Municipal Court Judge to Erika McJimpsey. I have no notes, transcript or recording, but press

coverage is supplied. The address for the Spartanburg Municipal Court is 145 Broad Street, Spartanburg, South Carolina 29306.

January 15, 2009: Panelist, Martin Luther King, Jr. Annual Legal Symposium, University of South Carolina Black Law Students Association, Columbia, South Carolina. I participated in a discussion about Martin Luther King. I have no notes, transcript or recording, but press coverage is supplied. The address for the University of South Carolina Black Law Students Association is 701 Main Street, Columbia, South Carolina 29208.

January 6, 2009: Administer of Oath, "Oath of Office," Spartanburg County Council, Spartanburg, South Carolina. I administered the oath for County Councilman to Michael D. Brown. I have no notes, transcript or recording. The address for the Spartanburg County Council is 366 North Church Street, Suite 1000, Spartanburg, South Carolina 29303.

January 6, 2009: Administer of Oath, "Oath of Office," Seventh Circuit Solicitor, Spartanburg, South Carolina. I administered the oath for South Carolina Seventh Circuit Solicitor to Harold Gowdy, III. I have no notes, transcript or recording. The address for the Seventh Circuit Solicitor is 180 Magnolia Street, Spartanburg, South Carolina 29306.

November 29, 2008: Moderator, Ethics Judicial Panel, National Bar Association, Greenville, South Carolina. I moderated a panel discussion on ethics. I have no notes, transcript or recording. The address for the National Bar Association is 1225 11th Street Northwest, Washington, District of Columbia 20001.

September 11, 2008: Guest Speaker, "Constitution Day," Claflin University, Orangeburg, South Carolina. Notes supplied.

August 15, 2008: Keynote Speaker, Graduation Banquet, Fifth Annual Focus on Leadership Program, Spartanburg, South Carolina. I have no notes, transcript or recording. The address for the Leadership Spartanburg Program is 105 North Pine Street, Spartanburg, South Carolina 29302.

August 2008: Speaker, "Creating Opportunities . . . Fulfilling Dreams," South Carolina State University Alumni Association, Newport News, Virginia. I spoke during one of the luncheons at the convention that focused on the history and future of the university. I have no notes, transcript or recording. The address for South Carolina State University is 300 College Street North East, Orangeburg, South Carolina 29115.

April 17, 2008: Administer of Oath, "Oath of Office," Spartanburg County Council, Spartanburg, South Carolina. I administered the oath for County Councilman to Michael D. Brown. I have no notes, transcript or recording, but

press coverage is supplied. The address for the Spartanburg County Council is 366 North Church Street, Suite 1000, Spartanburg, South Carolina 29303.

January 24, 2008: Guest Speaker, Awards Reception and Annual Meeting, South Carolina African American Heritage Commission, Spartanburg, South Carolina. I do not recall the content of my remarks. I have no notes, transcript or recording. The address for the South Carolina African American Heritage Commission is 8301 Parklane Road, Columbia, South Carolina 29223.

2008: Presenter, Appellate Practice Continuing Legal Education Seminar, Spartanburg County Bar Association, Spartanburg, South Carolina, sponsored by the Spartanburg County Bar Association. The seminar focused on issues involving appellate review. I do not recall the content of my remarks. I have no notes, transcript or recording. The address for the Spartanburg County Bar Association is Post Office Drawer 1897, Spartanburg, South Carolina 29304.

2008: Presenter, Appellate Practice and Ethics Continuing Legal Education Seminar, Charleston School of Law, Charleston, South Carolina. The seminar focused on issues involving appellate review and attorney discipline. I do not recall the contents of my remarks. I have no notes, transcript or recording. The address for the Charleston School of Law is 81 Mary Street, Charleston, South Carolina 29403.

2008: Presenter, Civil and Criminal Law, Black Lawyers Conference, University of South Carolina Black Law Students Association, Columbia, South Carolina. The seminar focused on South Carolina criminal and civil law updates. I do not recall the contents of my remarks. I have no notes, transcript or recording. The address for the University of South Carolina Black Law Students Association is 701 Main Street, Columbia, South Carolina 29208.

December 15, 2007: Guest Speaker, Commencement Ceremony, South Carolina State University, Orangeburg, South Carolina. I gave a speech of encouragement and congratulated the students on their achievements. I have no notes, transcript or recording, but press coverage is supplied. The address for South Carolina State University is 300 College Street North East, Orangeburg, South Carolina 29115.

December 8, 2007: Award Recipient, Vision of Hope Gala, Allen Temple Community Development Center, Greenville, South Carolina. I received an award from the Vision of Hope organization, a division of the Allen Temple Community Development Center, and thanked the organization for the award and recognition. I have no notes, transcript or recording. The address for the Allen Temple Community Development Center is 404 Vardry Street, Greenville, South Carolina 29601.

September 27, 2007: Honoree, "Reflecting on a Journey. Focusing on a Lifetime," Charleston School of Law, Charleston, South Carolina. I was honored

by the Black Law Students Association. I gave remarks to thank the association for their acknowledgement. I have no notes, transcript or recording. The address for the Charleston School of Law is 81 Mary Street, Charleston, South Carolina 29403.

September 5, 2007: Speaker, Swearing-In Ceremony, South Carolina Supreme Court, Columbia, South Carolina. Video supplied.

2007 – 2009: Speaker, “National Center for State Courts’ Justice Case Files,” National Center for State Courts, various locations, South Carolina. As part of this program, I made presentations about the judicial process to several high schools in South Carolina. I have no notes, transcript, or recording, and I am unable to recall the exact dates or schools that were involved. The address for the National Center for State Courts is 300 Newport Avenue, Williamsburg, Virginia 23185.

April 19, 2006: Discussion-Group Facilitator, South Carolina Conference on Justice for Children, South Carolina Children’s Law Center at the University of South Carolina and the South Carolina Supreme Court, Columbia, South Carolina. As a facilitator, I inquired as to perceived problems facing children in South Carolina and potential solutions. I have no notes, transcript or recording. The address for the South Carolina Children’s Law Center is 1600 Hampton Street, Suite 502, Columbia, South Carolina 29208.

June 19, 2003: Speaker, Swearing-In Ceremony as Judge on the South Carolina Court of Appeals, Spartanburg County Courthouse, Spartanburg, South Carolina. I took the oath of office and reflected on the seriousness and importance of a judge’s duty to impartially dispense justice. I have no notes, transcript or recording, but press coverage is supplied. The address for the Spartanburg County Courthouse is 180 Magnolia Street, Spartanburg, South Carolina 29306.

November 17, 1995: Speaker, “Oath of Office,” Mary H. Wright Elementary School, Spartanburg, South Carolina. I administered the oath of office to South Carolina state representative Brenda Lee and gave a few remarks. I have no notes, transcript or recording, but press coverage is supplied. The address for Mary H. Wright Elementary School is 457 South Church Street, Spartanburg, South Carolina 29306.

August 16, 1995: Speaker, Swearing-In Ceremony, South Carolina Seventh Judicial Circuit, Spartanburg, South Carolina. I gave brief remarks at my swearing-in ceremony as a South Carolina circuit court judge. I have no notes, transcript or recording, but press coverage is supplied. The address of the South Carolina Seventh Judicial Circuit is 180 Magnolia Street, Spartanburg, South Carolina 29306.

September – November 1992: Although I was unopposed in my campaign for re-election to District 31 of the South Carolina General Assembly, I occasionally appeared at public forums for question-and-answer sessions held by community organizations. My remarks at these events were extemporaneous and not from prepared text. After reviewing my files and public records, I could not determine the specific dates or locations of these meetings. While I do not recall every group to which I spoke, they would have included the League of Women Voters and the Spartanburg Progressive Men's Club. I have no notes, transcripts or recordings from these events. The address for the League of Women Voters is 182 Stribling Circle, Spartanburg, South Carolina 29301. The Spartanburg Progressive Men's Club is now defunct.

February 25, 1991: Administer of Oath, "Oath of Office," I administered the oath of office to Spartanburg City Councilman Roy Henderson. I have no notes, transcript or recording. The address for the Spartanburg City Council is Spartanburg City Hall, 145 West Broad Street, Spartanburg, South Carolina 29306.

September – November 1990: In the course of campaigning for election to District 31 of the South Carolina General Assembly, I occasionally appeared at public forums for question-and-answer sessions held by community organizations. My remarks at these events were extemporaneous and not from prepared text. After reviewing my files and public records, I could not determine the specific dates or locations of these meetings. Although I do not recall every group to which I spoke, they would have included the League of Women Voters and the Spartanburg Progressive Men's Club. I have no notes, transcripts, or recordings from these events. The address for the League of Women Voters is 182 Stribling Circle, Spartanburg, South Carolina 29301. The Spartanburg Progressive Men's Club is now defunct.

September 8, 1990: Panelist, Spartanburg County African-American Summit, Spartanburg, South Carolina. I spoke about independence in politics and the importance of voting on principles and candidates' positions on issues, rather than party politics. I have no notes, transcript or recording, but press coverage is supplied. The Spartanburg County African-American Summit has no mailing address.

September – November 1989: Because I was unopposed in running for re-election as a member of City Council for District 5 of the City of Spartanburg, I did not campaign for this position. I did, however, appear at a few neighborhood and precinct meetings to inform the community about the state of the city and upcoming events. My remarks at these events were extemporaneous and not from prepared text. After reviewing my files and public records, I could not determine the specific dates or locations of these meetings. I have no notes, transcripts, or recordings from these events.

August 8, 1988: Speaker, Swearing-In Ceremony, Spartanburg City Council, Spartanburg, South Carolina. I performed the oath and thanked the community for their votes of confidence. I have no notes, transcript, or recording. The address for the Spartanburg City Council is 145 West Broad Street, Spartanburg, South Carolina 29306.

September – November 1987: While running for election as a member of City Council for District 5 of the City of Spartanburg, I occasionally appeared at public forums for question-and-answer sessions held by community organizations. My remarks at these events were extemporaneous and not from prepared text. After reviewing my files and public records, I could not determine the specific dates or locations of these meetings. Although I do not recall every group to which I spoke, they would have included the League of Women Voters and the Spartanburg Progressive Men's Club. I have no notes, transcripts, or recordings from these events. The address for the League of Women Voters is 182 Stribling Circle, Spartanburg, South Carolina 29301. The Spartanburg Progressive Men's Club is now defunct.

- e. List all interviews you have given to newspapers, magazines or other publications, or radio or television stations, providing the dates of these interviews and four (4) copies of the clips or transcripts of these interviews where they are available to you.

Alyssa Mulliger, *Beatty: My Focus Is on the Chief Justice Position on South Carolina Supreme Court*, SPARTANBURG HERALD-JOURNAL, February 26, 2016. Copy supplied (reprinted in multiple outlets).

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Robert W. Dalton, *Spartanburg Judge to Serve on High Court*, SPARTANBURG HERALD-JOURNAL, May 24, 2007. Copy supplied.

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Voters Will Pick New Councilman, SPARTANBURG HERALD-JOURNAL, August 2, 1988. Copy supplied.

13. **Judicial Office:** State (chronologically) any judicial offices you have held, including positions as an administrative law judge, whether such position was elected or appointed, and a description of the jurisdiction of each such court.

Since 2007, I have served as a justice on the South Carolina Supreme Court. In South Carolina, judicial offices are filled by a majority vote of the members of the South Carolina legislature. I was elected to fill the unexpired term of Justice E.C. Burnette and then reelected in 2010 for a ten-year term. As provided by statute, the South Carolina Supreme Court has both original and appellate jurisdiction. However, the South Carolina Supreme Court generally acts only in its appellate capacity, which includes cases on certiorari from the court of appeals and seven classes of appeals directly from the circuit and family courts. The seven classes are cases involving: (1) the death penalty, (2) public utility rates, (3) significant constitutional issues, (4) public bond issues, (5) election laws,

(6) an order limiting the investigation by a state grand jury, and (7) an order of a family court relating to an abortion of a minor. In addition to hearing and deciding cases, the court also has rulemaking authority for the unified judicial system, including ethics regulations for judges and controlling the admission to and disciplining of the South Carolina Bar.

From 2003 to 2007, I served as a judge on the South Carolina Court of Appeals after being elected by the South Carolina General Assembly by majority vote. Most appeals from the circuit court and the family court are heard by the court of appeals (S.C. Code Ann. § 14-8-200). Exceptions are when the appeal falls within any of the seven classes that are directly appealed to the South Carolina Supreme Court or when the appeal is certified for determination by the South Carolina Supreme Court.

From 1995 to 2003, I served on the South Carolina Seventh Judicial Circuit Court after being elected by the South Carolina General Assembly by majority vote. The circuit court is the state's court of general jurisdiction. As a circuit court judge, I presided over cases in civil court (the Court of Common Pleas) and criminal court (the Court of General Sessions). In addition to its general trial jurisdiction, the circuit court has limited appellate jurisdiction over appeals from the probate court, magistrate's court, and municipal court.

- a. Approximately how many cases have you presided over that have gone to verdict or judgment?

South Carolina trial judges have the highest per capita caseloads in the country. Although the numbers have changed over the years, I would conservatively estimate that I presided over approximately 4,000 cases during the period of 1995 to 2003. An exact number is practically impossible to identify because there is no central database for cases handled by an individual trial judge. If appellate cases are considered, then the number would increase by approximately 2,200. The percentages listed below cover only those cases that I presided over as a circuit court judge.

- i. Of these, approximately what percent were:

jury trials:	20%
bench trials:	80%
civil proceedings:	60%
criminal proceedings:	40%

- b. Provide citations for all opinions you have written, including concurrences and dissents.

See attached list of cases.

- c. For each of the 10 most significant cases over which you presided, provide: (1) a

capsule summary of the nature the case; (2) the outcome of the case; (3) the name and contact information for counsel who had a significant role in the trial of the case; and (3) the citation of the case (if reported) or the docket number and a copy of the opinion or judgment (if not reported).

Although I presided over more than 4,000 cases as a circuit court judge, the records of these unpublished decisions are not readily available because they are stored in hard copy in each of the county circuits throughout South Carolina. As a result, I have identified ten cases from my time as an appellate judge:

1. McHam v. State, 404 S.C. 465, 746 S.E.2d 41 (2013).

This case involved a motion to suppress drug evidence revealed during a search of the petitioner's vehicle at a traffic checkpoint. We held that despite trial counsel's deficient performance in failing to renew an objection to the admission of the drug evidence, the petitioner was not prejudiced. Specifically, we ruled that the search was permissible under the Fourth Amendment to the United States Constitution as consideration for the officer's safety justified the opening of the passenger's side door under reasonable circumstances. Accordingly, we affirmed as modified the circuit court judge's order denying the petitioner's application for post-conviction relief.

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2. Limehouse v. Hulsey, 404 S.C. 93, 744 S.E.2d 566 (2013).

On certiorari review, we were required to determine whether a state court had jurisdiction pursuant to an electronically submitted remand order from the federal court. We held that the lack of a certified remand order precluded jurisdiction from resuming in the state court. Accordingly, we reversed the decision of the South Carolina Court of Appeals, vacated the state court proceedings, and remanded the case to the circuit court. Additionally, we reaffirmed state precedent that a defendant who is determined to be in default is limited during the trial to conducting cross-examination and objecting to the plaintiff's evidence.

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3. Wilson v. Dallas, 403 S.C. 411, 743 S.E.2d 746 (2013).

In this case, which involved the Estate of James Brown (“The Godfather of Soul”), we were required to analyze the circuit court judge’s rulings regarding an approved settlement agreement, which was directed by the South Carolina Attorney General, and the removal of the estate’s attorneys from their fiduciary positions and the appointment of a certified public accountant (CPA) as personal representative and trustee. We found the settlement agreement subverted the decedent’s stated desires. Additionally, we held that the settlement provisions overreached the Attorney General’s statutory authority. We also affirmed the removal of the estate’s attorneys from their fiduciary positions and voided the appointment of the CPA. Accordingly, we remanded the matter to the circuit court to appoint fiduciaries and evaluate all fees that were related to the case.

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4. Bell et al. v. S.C. Dep't of Corrs., 397 S.C. 320, 724 S.E.2d 675 (2012).

In this case, state employees appealed the circuit court judge's order regarding a reduction-in-force implemented by the South Carolina Department of Corrections (SCDC). We found the employees were subject to the SCDC's statutorily authorized personnel policies and employment procedures. However, we held the SCDC violated statutory law in precluding the employees from exercising their priority right to recall regarding positions vacated by retirees. Additionally, we found the SCDC violated state precedent when it retained the employees after the reduction-in-force but paid them less than the commensurate pay schedule. As a result, we remanded the matter for a determination of the appropriate compensation due to the employees.

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5. State v. Green, 397 S.C. 268, 724 S.E.2d 664 (2012).

The defendant appealed his convictions for criminal solicitation of a minor and attempted criminal sexual conduct with a minor in the second-degree. The convictions arose out of the defendant's online chats with an undercover investigator who was part of the Internet Crimes Against Children Task Force. The primary issue in this case required us to analyze the defendant's First Amendment challenge to South Carolina's criminal solicitation of a minor statute. Specifically, the defendant claimed the statute was unconstitutionally overbroad and vague because it did not identify the forms and content of the communications that are criminalized. The statute identified its elements as a person who is 18 years of age or older, who knowingly contacts or communicates with, or attempts to contact or communicate with a person who is under the age of 18, or a person reasonably believed to be under 18, for the purpose of or with the intent of persuading, inducing, enticing, or coercing the person to engage or participate in sexual activity or a violent crime, or with the intent to perform a sexual activity in the presence of the person under the age of 18. We found the statute was not unconstitutionally overbroad because it did not criminalize protected speech and was narrowly tailored to achieve a compelling state interest. Additionally, we found the statute was not void for vagueness because it was sufficiently precise to provide fair notice to those to whom the statute applies. Ultimately, we affirmed the defendant's convictions because we agreed with the trial judge's remaining rulings regarding the admission of certain evidence and the sufficiency of the evidence.

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6. State v. Inman, 395 S.C. 539, 720 S.E.2d 31 (2011).

In this capital case, we found the defendant entered a valid guilty plea because the plea was not conditioned on the outcome of an issue raised during the plea proceedings. As to the propriety of the sentencing proceedings, we considered issues regarding alleged misconduct by the state's attorneys. Although we found a state's attorney committed witness intimidation, we concluded that the prosecutorial misconduct did not sufficiently prejudice the defendant to warrant the grant of a mistrial.

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7. Media Gen. Commc'ns, Inc. v. S.C. Dep't of Revenue, 388 S.C. 138, 694 S.E.2d 525 (2010).

In this case, we considered whether the South Carolina Department of Revenue (SCDOR) employed the proper apportionment method in calculating corporations' state tax liabilities. We affirmed the administrative law court's grant of summary judgment in favor of the corporations, as the calculation method utilized by the corporations was statutorily authorized. With respect to future cases, however, we ruled that the SCDOR has discretion to select an alternative accounting method if it establishes that another method would be more appropriate.

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8. Pierre v. Seaside Farms, Inc., 386 S.C. 534, 689 S.E.2d 615 (2010).

In this case, we considered whether a migrant worker, who sustained an injury when he fell on a wet sidewalk outside the housing supplied by his employer, was entitled to worker's compensation benefits. Because the employee was essentially required to live on his employer's premises by the nature of his employment and his injury was causally related to the conditions under which he lived, we reversed the circuit court's order and remanded the matter for further proceedings as to an award of benefits.

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9. Salmonsens v. CGD, Inc., 377 S.C. 442, 661 S.E.2d 81 (2008).

In this class action case, the circuit court judge conditionally certified the class and ordered an opt-in notification procedure. We found the class certification orders were not immediately appealable and, thus, dismissed this portion of the appeal as interlocutory. Because the order establishing the opt-in notification procedure affected a mode of trial, however, we found this order was immediately appealable. After reviewing the applicable South Carolina rules of civil procedure, we adopted the "opt-out" notification procedure as the proper and exclusive method of class action litigation in South Carolina. Based on these holdings, we remanded the case to the circuit court for further proceedings.

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10. McCann v. Doe, 377 S.C. 373, 660 S.E.2d 500 (2008).

This adoption case required us to interpret South Carolina law regarding the consent to relinquish a child for adoption. While acknowledging South Carolina's requirement that consent to relinquish a child for adoption becomes effective immediately upon signature, we agreed with the family court's decision that the biological mother proved she was incapable of giving voluntary consent. We further found that it was in the best interest of the child for the consent to be withdrawn and for the child to be returned to the biological mother.

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- d. For each of the 10 most significant opinions you have written, provide: (1) citations for those decisions that were published; (2) a copy of those decisions that were not published; and (3) the names and contact information for the attorneys who played a significant role in the case.

Below is a list of the ten most significant opinions that I authored while serving as a justice on the South Carolina Supreme Court.

1. McHam v. State, 404 S.C. 465, 746 S.E.2d 41 (2013).

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2. Limehouse v. Hulsey, 404 S.C. 93, 744 S.E.2d 566 (2013).

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3. Wilson v. Dallas, 403 S.C. 411, 743 S.E.2d 746 (2013).

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4. Bell et al. v. S.C. Dep't of Corrs., 397 S.C. 320, 724 S.E.2d 675 (2012).

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5. State v. Green, 397 S.C. 268, 724 S.E.2d 664 (2012).

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6. State v. Inman, 395 S.C. 539, 720 S.E.2d 31 (2011).

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7. Media Gen. Commc'ns, Inc. v. S.C. Dep't of Revenue, 388 S.C. 138, 694 S.E.2d 525 (2010).

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8. Pierre v. Seaside Farms, Inc., 386 S.C. 534, 689 S.E.2d 615 (2010).

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9. Salmonsens v. CGD, Inc., 377 S.C. 442, 661 S.E.2d 81 (2008).

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e. Provide a list of all cases in which certiorari was requested or granted.

This is a list of cases in which certiorari to the Supreme Court of the United States was requested and denied for the opinions that I authored as a justice on the South Carolina Supreme Court.

State v. Inman, 395 S.C. 539, 720 S.E.2d 31 (2011), cert. denied, 133 S. Ct. 219 (2012)

Council v. State, 380 S.C. 159, 670 S.E.2d 356 (2008), cert. denied, South Carolina v. Council, 556 U.S. 1290 (2009)

This is a list of cases in which certiorari to the South Carolina Supreme Court was requested and denied for the opinions that I authored as a judge on the South Carolina Court of Appeals.

S.C. Elec. & Gas Co. v. Hartough, 375 S.C. 541, 654 S.E.2d 87 (Ct. App. 2007), cert. denied (S.C. Sept. 18, 2008)

Robbins v. Walgreens & Broadspire Servs., Inc., 375 S.C. 259, 652 S.E.2d 90 (Ct. App. 2007), cert. denied (S.C. Aug. 22, 2008)

State v. Gentile, 373 S.C. 506, 646 S.E.2d 171 (Ct. App. 2007), cert. denied (S.C. Apr. 4, 2008)

Rhoad v. State, 372 S.C. 100, 641 S.E.2d 35 (Ct. App. 2007), cert. denied (S.C. Mar. 5, 2008)

State v. Rikard, 371 S.C. 295, 638 S.E.2d 72 (Ct. App. 2006), cert. denied (S.C. Nov. 15, 2007)

Myatt v. RHBT Fin. Corp., 370 S.C. 391, 635 S.E.2d 545 (Ct. App. 2006), cert. denied (S.C. Aug. 23, 2007)

State v. Bailey, 368 S.C. 39, 626 S.E.2d 898 (Ct. App. 2006), cert. denied (S.C. Mar. 8, 2007)

State v. Broaddus, 361 S.C. 534, 605 S.E.2d 579 (Ct. App. 2004), cert. denied (S.C. Apr. 19, 2006)

State v. Guillebeaux, 362 S.C. 270, 607 S.E.2d 99 (Ct. App. 2004), cert. denied (S.C. Apr. 6, 2006)

State v. Brown, 362 S.C. 258, 607 S.E.2d 93 (Ct. App. 2004), cert. denied (S.C. Apr. 6, 2006)

Venture Eng'g, Inc. v. Tishman Constr. Corp. of S.C., 360 S.C. 156, 600 S.E.2d 547 (Ct. App. 2004), cert. denied (S.C. Jan. 19, 2006)

Carter v. Univ. of S.C., 360 S.C. 428, 602 S.E.2d 59 (Ct. App. 2004), cert. denied (S.C. Dec. 14, 2005)

Stone v. Traylor Bros., Inc., 360 S.C. 271, 600 S.E.2d 551 (Ct. App. 2004), cert. denied (S.C. Nov. 2, 2005)

Shapemasters Golf Course Builders, Inc. v. Shapemasters, Inc., 360 S.C. 473, 602 S.E.2d 83 (Ct. App. 2004), cert. denied (S.C. Oct. 5, 2005)

In re Beard, 359 S.C. 351, 597 S.E.2d 835 (Ct. App. 2004), cert. denied (S.C. Sept. 22, 2005)

State v. Pipkin, 359 S.C. 322, 597 S.E.2d 831 (Ct. App. 2004), cert. denied (S.C. Sept. 22, 2005)

West v. Newberry Elec. Co-op., 357 S.C. 537, 593 S.E.2d 500 (Ct. App. 2004), cert. denied (S.C. Mar. 17, 2005)

This is a list of cases in which certiorari to the South Carolina Supreme Court was granted for the opinions that I authored as a judge on the South Carolina Court of Appeals.

Mikell v. County of Charleston, 375 S.C. 552, 654 S.E.2d 92 (Ct. App. 2007), rev'd, 386 S.C. 153, 687 S.E.2d 326 (2009)

Neal v. Brown, 374 S.C. 641, 649 S.E.2d 164 (Ct. App. 2007), rev'd, 383 S.C. 619, 682 S.E.2d 268 (2009)

Marlar v. State, 373 S.C. 275, 644 S.E.2d 769 (Ct. App. 2007), rev'd, 375 S.C. 407, 653 S.E.2d 266 (2007)

State v. Roberson, 371 S.C. 334, 638 S.E.2d 93 (Ct. App. 2006), rev'd, 382 S.C. 185, 675 S.E.2d 732 (2009)

State v. Navy, 370 S.C. 398, 635 S.E.2d 549 (Ct. App. 2006), aff'd in part and rev'd in part by 386 S.C. 294, 688 S.E.2d 838 (2010)

Aiken v. World Fin. Corp. of S.C., 367 S.C. 176, 623 S.E.2d 873 (Ct. App. 2005), aff'd as modified by 373 S.C. 144, 644 S.E.2d 705 (2007)

Simpson v. World Fin. Corp. of S.C., 367 S.C. 184, 623 S.E.2d 877 (Ct. App. 2005), aff'd, 373 S.C. 178, 644 S.E.2d 723 (2007)

State v. Wharton, 367 S.C. 71, 624 S.E.2d 654 (Ct. App. 2005), aff'd in part and vacated in part by 381 S.C. 209, 672 S.E.2d 786 (2009)

Historic Charleston Holdings, L.L.C. v. Mallon, 365 S.C. 524, 617 S.E.2d 388 (Ct. App. 2005), rev'd, 381 S.C. 417, 673 S.E.2d 448 (2009)

Hansson v. Scalise Builders of S.C., 2005 WL 7083999 (S.C. Ct. App. May 18, 2005), rev'd, 374 S.C. 352, 650 S.E.2d 68 (2007)

McMillan v. S.C. Dep't of Agric., 364 S.C. 60, 611 S.E.2d 323 (Ct. App. 2005), rev'd, 380 S.C. 212, 670 S.E.2d 368 (2008)

State v. Miller, 363 S.C. 635, 611 S.E.2d 309 (Ct. App. 2005), cert. dismissed as improvidently granted, 373 S.C. 599, 647 S.E.2d 175 (2007)

Nationwide Mut. Ins. Co. v. Erwood, 364 S.C. 1, 611 S.E.2d 319 (Ct. App. 2005), aff'd as modified by 373 S.C. 88, 644 S.E.2d 62 (2007)

State v. James, 362 S.C. 557, 608 S.E.2d 455 (Ct. App. 2004), cert. dismissed as improvidently granted, 373 S.C. 599, 647 S.E.2d 175 (2007)

Burgess v. Nationwide Mut. Ins. Co., 361 S.C. 196, 603 S.E.2d 861 (Ct. App. 2004), rev'd, 373 S.C. 37, 644 S.E.2d 40 (2007)

State v. Slater, 360 S.C. 487, 602 S.E.2d 90 (Ct. App. 2004), rev'd, 373 S.C. 66, 644 S.E.2d 50 (2007)

Clear Channel Outdoor v. City of Myrtle Beach, 360 S.C. 459, 602 S.E.2d 76, (Ct. App. 2004), aff'd, 372 S.C. 230, 642 S.E.2d 565 (2007)

Angus v. Burroughs & Chapin Co., 358 S.C. 498, 596 S.E.2d 67 (Ct. App. 2004), rev'd, 368 S.C. 167, 628 S.E.2d 261 (2006)

- f. Provide a brief summary of and citations for all of your opinions where your decisions were reversed by a reviewing court or where your judgment was affirmed with significant criticism of your substantive or procedural rulings. If any of the opinions listed were not officially reported, provide copies of the opinions.

My Westlaw research reveals that I have participated in 1,552 cases as a justice with the South Carolina Supreme Court and 910 cases as a judge with the South Carolina Court of Appeals. Below is a list of 52 cases in which a decision that I authored or a decision that I joined in the majority opinion was reversed in whole, reversed in part, or affirmed on other grounds. This list establishes an overall reversal rate of 2.1% of my appellate decisions.

South Carolina Supreme Court:

As a justice with the South Carolina Supreme Court, less than 1% of my decisions have been reversed.

I authored these opinions as a justice with the South Carolina Supreme Court:

Floyd v. Morgan, 383 S.C. 469, 681 S.E.2d 570 (2009), disapproved by Miles v. Miles, 393 S.C. 111, 711 S.E.2d 880 (2011). In Floyd, we held the evidence was insufficient to establish that a substantial change in circumstances had occurred to warrant a modification of child support. In Miles, we disavowed the line of cases including Floyd, which placed an extremely high burden on a party seeking modification of child support when a divorce agreement was at issue.

Colleton Preparatory Acad., Inc. v. Hoover Universal, Inc., 379 S.C. 181, 666 S.E.2d 247 (2008), overruled in part by Sapp v. Ford Motor Co., 386 S.C. 143, 687 S.E.2d 47 (2009). In Colleton Preparatory, we held that a remote purchaser could recover purely economic losses in tort from a

manufacturer because the economic-loss rule did not apply. In Sapp, we overruled Colleton Preparatory to the extent the opinion expanded the narrow exception to the economic-loss rule.

I joined in the majority opinion of these cases as a justice with the South Carolina Supreme Court.

Adoptive Couple v. Baby Girl, 398 S.C. 625, 731 S.E.2d 550 (2012), rev'd, 133 S. Ct. 2552 (2013). In this contested adoption case, we were required to determine whether a biological father, who is a member of the Cherokee Nation, voluntarily relinquished his parental rights under the Indian Child Welfare Act (ICWA). Because the case involved an Indian child, we found the ICWA applied and conferred conclusive custodial preference to the biological father who did not consent to the child's adoption. Accordingly, we affirmed the family court's denial of the adoption decree and transfer of custody from the prospective adoptive parents to the biological father. On certiorari review, the Supreme Court of the United States disagreed with our statutory interpretation and reversed our decision because it found the ICWA did not apply.

Priester v. Cromer, 388 S.C. 425, 697 S.E.2d 567 (2010), vacated by 131 S. Ct. 1570 (2011). In this case, we considered as a matter of first impression whether Federal Motor Vehicle Safety Standard 205 preempts a state law products liability claim premised solely on a car manufacturer's choice of tempered glass for a vehicle's side windows. Pending resolution of the issue by the Supreme Court of the United States, we joined those jurisdictions that found the federal regulation preempted state law. Accordingly, we affirmed the circuit court judge's grant of summary judgment in favor of the car manufacturer. On certiorari review, the Supreme Court vacated our decision and remanded for us to reconsider our decision in light of Williamson v. Mazda Motor of Am., Inc., 131 S. Ct. 1131 (2011). In Williamson, the Supreme Court held that Federal Motor Vehicle Safety Standard 208, which gives auto manufacturers the choice of installing lap-and-shoulder belts or simple lap belts on the rear-inner seats, did not preempt a California state tort suit.

Webb v. Sowell, 387 S.C. 328, 692 S.E.2d 543 (2010), overruled by McLeod v. Starnes, 396 S.C. 647, 723 S.E.2d 198 (2012). In Webb, we considered whether a family court judge was statutorily authorized to order a parent subject to a child support order to contribute to an emancipated child's college expenses. We reversed the family court judge's order, concluding that the statute on which the order was based violated the Equal Protection Clause. In so ruling, we determined that there was no rational basis for the varied treatment of the parents subject to a child support order compared to those parents who are not subject to such an order. In McLeod, the majority of the South Carolina Supreme

Court overruled Webb, concluding that the statute at issue was rationally related to the State's interest in ensuring that children are educated. I dissented in McLeod because I maintained that a parent has no legal obligation to pay college expenses for a child who has reached the age of majority.

Herron v. Century BMW, 387 S.C. 525, 693 S.E.2d 394 (2010), vacated by Sonic Auto., Inc. v. Watts, 131 S. Ct. 2872 (2011). This case involved the enforceability of an arbitration agreement. Although we held that the arbitration agreement was not unconscionable, we found the arbitration provision that prevented class actions was against public policy. On certiorari review, the Supreme Court of the United States vacated our decision and remanded in light of AT&T Mobility, L.L.C. v. Concepcion, 113 S. Ct. 1740 (2011). In Concepcion, the Supreme Court held that the Federal Arbitration Act preempted California's judicial rule that conditioned the enforceability of certain arbitration agreements on the availability of class-wide arbitration procedures.

Price v. Turner, 387 S.C. 142, 691 S.E.2d 470 (2010), vacated by Turner v. Rogers, 131 S. Ct. 2507 (2011). We held that the father, who was subject to a child support order, did not have a constitutional right to appointed counsel before being incarcerated for civil contempt for nonsupport. Because the father could have avoided the sentence by complying with the family court's previous support order, we concluded that he was not subject to a permanent or unconditional loss of liberty. The Supreme Court of the United States vacated our decision and remanded the case for further proceedings. In so ruling, the Supreme Court held that the father's incarceration violated the Due Process Clause because the father did not receive clear notice that his ability to pay would constitute the critical question in the civil contempt proceeding and there was no finding regarding the father's ability to pay the arrearage.

Dawkins v. Dawkins, 386 S.C. 169, 687 S.E.2d 52 (2010), abrogated by Lewis v. Lewis, 392 S.C. 381, 709 S.E.2d 650 (2011). In Dawkins, we reviewed the decision of the South Carolina Court of Appeals that reversed a family court judge's order regarding the equitable division of a marital estate. We reversed the decision of the Court of Appeals and reiterated that a family court judge's equitable division award should be reversed only when an appellant demonstrates an abuse of discretion. In Lewis, we held that *de novo* review was the appropriate appellate standard of review because it is consistent with the South Carolina Supreme Court's constitutional authority.

S.C. Pub. Interest Found. v. Harrell, 378 S.C. 441, 663 S.E.2d 52 (2008), abrogated by Am. Petroleum Inst. v. S.C. Dep't of Revenue, 382 S.C. 572, 677 S.E.2d 16 (2009). In South Carolina Public Interest Foundation, we

analyzed whether several acts passed by the South Carolina legislature violated the one-subject rule of the South Carolina Constitution. We struck the portions of the challenged acts that violated the one-subject provision of the state constitution. In American Petroleum Institute, we held that a legislative act, which violates the one-subject rule of the South Carolina Constitution, may not be severed because it is unconstitutional in its entirety.

South Carolina Court of Appeals:

As a judge with the South Carolina Court of Appeals, my reversal rate was approximately 4.7%.

I authored these opinions as a judge with the South Carolina Court of Appeals:

Mikell v. County of Charleston, 375 S.C. 552, 654 S.E.2d 92 (Ct. App. 2007), rev'd, 386 S.C. 153, 687 S.E.2d 326 (2009). In this case involving a rezoning challenge, the master-in-equity found that the county council exceeded its authority in enacting a zoning ordinance for a planned development. We reversed the master's order, concluding that the county council acted within its statutory authority. The South Carolina Supreme Court disagreed with our decision and reinstated the master's order.

Neal v. Brown, 374 S.C. 641, 649 S.E.2d 164 (Ct. App. 2007), rev'd, 383 S.C. 619, 682 S.E.2d 268 (2009). A landowner sought review of a decision from the Coastal Zone Management Appellate Panel of the Office of Ocean and Coastal Resource Management, which effectively denied the landowner a dock permit. The circuit court affirmed the decision. We reversed because we found the landowner was eligible for the permit and the circuit court exceeded its scope of review in making its own findings of fact. The South Carolina Supreme Court reversed our decision, concluding that the landowner was not eligible for the dock permit.

Marlar v. State, 373 S.C. 275, 644 S.E.2d 769 (Ct. App. 2007), rev'd, 375 S.C. 407, 653 S.E.2d 266 (2007). We reversed the circuit court's denial of the petitioner's application for post-conviction relief because we found the petitioner properly preserved his issues for appellate review and presented evidence in support of his claims for relief. The South Carolina Supreme Court disagreed with our interpretation of error preservation rules and reversed.

State v. Roberson, 371 S.C. 334, 638 S.E.2d 93 (Ct. App. 2006), rev'd, 382 S.C. 185, 675 S.E.2d 732 (2009). We reversed the defendant's conviction for failure to register as a sex offender and remanded for a new trial, finding that the defendant's failure to appear at trial did not constitute an affirmative waiver of his Sixth Amendment right to counsel. The South

Carolina Supreme Court reversed our decision, concluding that a waiver of the right to counsel was inferable from the defendant's actions.

State v. Navy, 370 S.C. 398, 635 S.E.2d 549 (Ct. App. 2006), aff'd in part and rev'd in part by 386 S.C. 294, 688 S.E.2d 838 (2010). We reversed the defendant's conviction for homicide by child abuse because the trial judge erred in admitting three statements given by the defendant. Although the South Carolina Supreme Court agreed that the defendant's two written statements should have been suppressed, it concluded that the trial judge properly admitted the defendant's initial oral statement because it had been lawfully obtained.

Aiken v. World Fin. Corp. of S.C., 367 S.C. 176, 623 S.E.2d 873 (Ct. App. 2005), aff'd as modified by 373 S.C. 144, 644 S.E.2d 705 (2007). We affirmed the circuit court's denial of the finance corporation's motion to compel arbitration. In so ruling, we found the borrower's claims against the finance corporation were not subject to arbitration. Although the South Carolina Supreme Court agreed with our ultimate conclusion, it disagreed with our analysis and pronounced a definitive rule for determining whether a dispute implicates an arbitration provision in a contract.

State v. Wharton, 367 S.C. 71, 624 S.E.2d 654 (Ct. App. 2005), aff'd in part and vacated in part by 381 S.C. 209, 672 S.E.2d 786 (2009). We reversed the defendant's convictions for voluntary manslaughter and possession of a weapon during the commission of a violent crime on the ground that the evidence did not support a jury instruction on voluntary manslaughter. Although the South Carolina Supreme Court agreed that there was no evidence of sufficient legal provocation to warrant an instruction on voluntary manslaughter, it vacated the portion of our decision regarding the doctrine of transferred intent as to voluntary manslaughter.

Historic Charleston Holdings, L.L.C. v. Mallon, 365 S.C. 524, 617 S.E.2d 388 (Ct. App. 2005), rev'd, 381 S.C. 417, 673 S.E.2d 448 (2009). In this case involving the dissolution of a limited liability company ("LLC"), we affirmed the master-in-equity's decision to award attorney fees and to deny certain expenses to the LLC. We reversed the master's failure to order an accounting and remanded for an accounting. The South Carolina Supreme Court reversed our decision, concluding that a full accounting was not necessary, the master did not err in excluding certain evidence, and that the LLC was not entitled to pre-judgment interest on the statutory fees.

Hansson v. Scalise Builders of S.C., 2005 WL 7083999 (S.C. Ct. App. May 18, 2005), rev'd, 374 S.C. 352, 650 S.E.2d 68 (2007). We reversed the circuit court's grant of summary judgment in favor of an employee's former supervisor and employer regarding a cause of action for intentional

infliction of emotional distress. The South Carolina Supreme Court reversed our decision, finding that the emotional distress allegedly sustained by the employee was not sufficiently “severe” to establish a prima facie claim for damages resulting from the defendants’ conduct.

McMillan v. S.C. Dep’t of Agric., 364 S.C. 60, 611 S.E.2d 323 (Ct. App. 2005), rev’d, 380 S.C. 212, 670 S.E.2d 368 (2008). This case required us to interpret South Carolina law that regulates the “State Warehouse System.” We found the farmers, who filed claims with the South Carolina Department of Agriculture to recover losses they suffered in a warehouse bankruptcy, were entitled to compensation but not an award of pre-judgment interest. The South Carolina Supreme Court reversed our decision, concluding that the farmers were not entitled to recover for their losses.

Nationwide Mut. Ins. Co. v. Erwood, 364 S.C. 1, 611 S.E.2d 319 (Ct. App. 2005), aff’d as modified by 373 S.C. 88, 644 S.E.2d 62 (2007). We held that a policy provision, which precluded the injured motorist from receiving uninsured motorist coverage from an insurance policy that was maintained on a vehicle not involved in the accident, was invalid because it was more restrictive than what was required by statute. Although the South Carolina Supreme Court agreed with our conclusion, it relied on public policy to reach its decision.

Burgess v. Nationwide Mut. Ins. Co., 361 S.C. 196, 603 S.E.2d 861 (Ct. App. 2004), rev’d, 373 S.C. 37, 644 S.E.2d 40 (2007). We held that a policy provision, which limited underinsured motorist coverage to the lesser of the coverage limits under the policy or the coverage limits on the vehicle involved in the accident, was void because it violated public policy. The South Carolina Supreme Court disagreed with our interpretation and held the policy provision at issue was valid.

State v. Slater, 360 S.C. 487, 602 S.E.2d 90 (Ct. App. 2004), rev’d, 373 S.C. 66, 644 S.E.2d 50 (2007). We reversed the defendant’s murder conviction and remanded for a new trial, finding that the trial judge erred in failing to charge the jury on the law of self-defense. The South Carolina Supreme Court reversed our decision because it found the evidence did not support a self-defense charge.

Angus v. Burroughs & Chapin Co., 358 S.C. 498, 596 S.E.2d 67 (Ct. App. 2004), rev’d, 368 S.C. 167, 628 S.E.2d 261 (2006). In this case, we considered whether the at-will employment doctrine extends its protection to third parties. We found that a terminated county administrator, who was an at-will employee, could not maintain a cause of action for civil conspiracy against the county council members. However, we held that she could proceed with her cause of action against the third parties. The South

Carolina Supreme Court disagreed, holding that a public official could not maintain a civil conspiracy suit against any of the named defendants.

I joined in the majority opinion of these cases as a judge with the South Carolina Court of Appeals.

McCrosson v. Tanenbaum, 375 S.C. 225, 652 S.E.2d 73 (Ct. App. 2007), aff'd in part and vacated in part by 383 S.C. 150, 679 S.E.2d 172 (2009). We reversed the family court judge's order with respect to child custody and the award of attorney's fees. Although the South Carolina Supreme Court affirmed the merits of our decision, it vacated one sentence in our opinion that impliedly altered the standard of review applicable to an appellate court's review of a family court's child custody determination.

Law Firm of Paul L. Erickson, P.A. v. Boykin, 375 S.C. 204, 651 S.E.2d 606 (Ct. App. 2007), rev'd, 383 S.C. 497, 681 S.E.2d 575 (2009). In this case, a North Carolina attorney who was licensed to practice in South Carolina represented two South Carolina residents in an action in South Carolina. When his clients refused to pay the legal fees, the attorney obtained a default judgment against the clients in North Carolina and sought to enforce it in South Carolina. The clients moved for relief of enforcement on the ground that North Carolina lacked personal jurisdiction. The circuit court judge ruled in favor of the clients because there was no evidence offered to prove that the clients had established the requisite minimum contacts to confer personal jurisdiction upon the North Carolina court. We agreed with the circuit court judge's ruling, finding that the South Carolina Uniform Enforcement of Foreign Judgment Act placed the burden of proving the judgment's entitlement to Full Faith and Credit on the creditor. The South Carolina Supreme Court reversed our decision, holding that the portion of the statute that we relied on was unconstitutional.

State v. Edwards, 374 S.C. 543, 649 S.E.2d 112 (Ct. App. 2007), rev'd, 384 S.C. 504, 682 S.E.2d 820 (2009). In this case, two brothers were tried jointly for murder. The jury convicted one brother of murder and the other brother of accessory after the fact of murder. We affirmed their convictions. The South Carolina Supreme Court reversed our decision and remanded for a new trial on the ground the trial judge erred in quashing the initial jury panel due to a violation of Batson v. Kentucky, 476 U.S. 79 (1986).

Williamson v. Middleton, 374 S.C. 419, 649 S.E.2d 2007 (Ct. App. 2007), aff'd in part and rev'd in part by 383 S.C. 490, 681 S.E.2d 867 (2009). A salesman, who was sued by his former employer for breach of fiduciary duty, counterclaimed for unpaid sales commissions. In a case decided after an *en banc* rehearing, we affirmed the jury's verdict in favor of the

salesman and found that the salesman's attorneys could collect attorneys' fees despite the lack of a formal fee agreement with their client. The South Carolina Supreme Court reversed our decision with respect to the award of attorneys' fees, concluding there was no evidence to support our finding.

State v. Hernandez, 2007 WL 8327480 (S.C. Ct. App. Apr. 18, 2007), rev'd, 382 S.C. 620, 677 S.E.2d 603 (2009). We affirmed the defendants' convictions for trafficking marijuana. The South Carolina Supreme Court reversed our decision and remanded for a new trial on the ground that the trial judge erred in declining to grant the defendants' motions for a direct verdict because the State failed to present substantial circumstantial evidence of the defendants' knowledge of the drugs.

Barton v. Higgs, 372 S.C. 109, 641 S.E.2d 39 (Ct. App. 2007), rev'd, 381 S.C. 367, 674 S.E.2d 145 (2009). We affirmed the circuit court judge's order finding that the South Carolina Uninsured Employers' Fund (Fund) was statutorily required to pay worker's compensation benefits to a claimant who was injured while working for an uninsured subcontractor. In so ruling, we determined that the general contractor complied with the requisite statutory requirements to transfer liability to the Fund. The South Carolina Supreme Court reversed our decision, holding that the general contractor could not transfer liability to the Fund because it failed to procure a signed Certificate of Insurance from the subcontractor.

Wilkinson v. Palmetto State Transp. Co., 371 S.C. 365, 638 S.E.2d 109 (Ct. App. 2006), rev'd, 382 S.C. 295, 676 S.E.2d 700 (2009). In this worker's compensation case, we affirmed the award of benefits to the dependents of a truck driver who was killed while driving a transfer truck. In reaching this conclusion, we rejected the company's contention that the driver was an independent contractor rather than an employee. Additionally, we found the company was solely responsible for the payment of benefits and could not seek credit for the payments from the driver's occupational disability policy. The South Carolina Supreme Court reversed our decision, concluding the truck driver was an independent contractor for the purposes of worker's compensation.

Richardson v. Donald Hawkins Constr., 370 S.C. 125, 634 S.E.2d 9 (Ct. App. 2006), rev'd, 381 S.C. 347, 673 S.E.2d 808 (2009). Following a jury verdict in favor of the plaintiffs, we found the trial judge erred in excluding a deceased co-defendant's recantation of his confession pursuant to Rule 806 of the South Carolina Rules of Evidence. The South Carolina Supreme Court reversed our decision, concluding that the trial judge properly weighed the probative versus prejudicial value of the evidence.

S.C. Dep't of Transp. v. McDonald's Corp., 2006 WL 7285985 (S.C. Ct. App. May 9, 2006), vacated by 375 S.C. 90, 650 S.E.2d 473 (2007). We affirmed the administrative law judge's order granting the South Carolina Department of Transportation's motion in limine to exclude any reference to evidence from a prior condemnation action. The South Carolina Supreme Court vacated our decision and dismissed the appeal on the ground that the order was interlocutory and, thus, not immediately appealable.

Kelley v. Kelley, 368 S.C. 602, 629 S.E.2d 388 (Ct. App. 2006), abrogated by Strickland v. Strickland, 375 S.C. 76, 650 S.E.2d 465 (2007). In Kelley, we found the family court judge properly held that the wife's claim for past due alimony was barred by laches and that the wife's claim for future alimony was barred by the doctrine of equitable estoppel. In Strickland, the South Carolina Supreme Court vacated the portion of our opinion regarding the doctrine of laches, concluding that the doctrine of equitable estoppel is the appropriate doctrine for courts to employ when deciding an issue related to the enforcement of a court-ordered alimony obligation.

Powell v. Powell, 2005 WL 7084864 (S.C. Ct. App. Nov. 21, 2005), rev'd, 2008 WL 9881746 (S.C. Sept. 8, 2008). We found the family court judge erred in granting the wife a divorce on the ground of the husband's adultery. The South Carolina Supreme Court reversed and reinstated the family court judge's order because it found there was evidence to support the judge's decision.

State v. Davis, 364 S.C. 364, 613 S.E.2d 760 (Ct. App. 2005), rev'd in part and vacated in part by 371 S.C. 170, 638 S.E.2d 57 (2006). We affirmed the defendant's convictions of murder, armed robbery, and possession of a firearm during the commission of a violent crime. The South Carolina Supreme Court reversed our decision and remanded for a new trial, concluding that the trial judge erred in admitting the hearsay statement of a prosecution witness that did not fall within the excited utterance exception to the hearsay rule. Additionally, the Court vacated the portion of our opinion that addressed Crawford v. Washington, 541 U.S. 36 (2004), concluding that it was unnecessary to the disposition of the appeal.

State v. Staten, 364 S.C. 7, 610 S.E.2d 823 (Ct. App. 2005), vacated in part by 374 S.C. 9, 647 S.E.2d 207 (2007). We affirmed the defendant's convictions of murder and lynching in the first degree. Although the South Carolina Supreme Court affirmed our decision, it vacated the portion of our opinion discussing Crawford v. Washington, 541 U.S. 36 (2004) because it was unnecessary to the disposition of the appeal.

Smiley v. S.C. Dep't of Health & Envtl. Control, 2005 WL 7083551 (S.C.

Ct. App. Mar. 7, 2005), rev'd in part and vacated in part by 374 S.C. 326, 649 S.E.2d 31 (2007). We affirmed the circuit court judge's order that found the appellant lacked standing to appeal a permit issued by the South Carolina Department of Health and Environmental Control and the Office of Ocean and Coastal Resource Management to allow the excavation of sand on a beach used by the appellant. The South Carolina Supreme Court disagreed and reversed our decision, concluding that the appellant had sufficiently alleged that he had standing to challenge the permit.

Charleston Cnty. Dep't of Soc. Servs. v. King, 2005 WL 6152530 (S.C. Ct. App. Mar. 4, 2005), rev'd, 369 S.C. 96, 631 S.E.2d 239 (2006). We reversed the family court judge's order that terminated the mother's parental rights to her son. Although we concluded that there was one statutory ground to support the termination, we found that it was not in the best interests of the child to terminate the mother's parental rights. The South Carolina Supreme Court reversed our decision, concluding that the family court judge correctly determined that the best interests of the child were that his mother's rights be terminated and that he should remain with his prospective adoptive parents.

Gadson ex rel. Gadson v. ECO Servs. of S.C., Inc., 2005 WL 7083475 (S.C. Ct. App. Feb. 18, 2005), rev'd, 374 S.C. 171, 648 S.E.2d 585 (2007). In this case, the plaintiff brought a negligent entrustment action against a company and its employee after the plaintiff was injured when thrown from the company's truck that was being driven by the employee's cousin who was intoxicated. We affirmed the jury's verdict against the employee but reversed as to the company given there was no evidence to rationally infer that the company knew its employee would likely entrust the vehicle to another who would drive recklessly. The South Carolina Supreme Court reversed our decision, disagreeing with our interpretation of the evidence presented at trial. Specifically, the Court found there was no evidence that the employee knew his cousin was intoxicated at the time of the accident or that the cousin had a habit of being intoxicated and driving.

State v. Sowell, 2005 WL 7083468 (S.C. Ct. App. Feb. 17, 2005), rev'd, 370 S.C. 330, 635 S.E.2d 81 (2006). We affirmed the circuit court judge's order that held the defendant in criminal contempt for disclosing grand jury information that was subject to a protective order. The South Carolina Supreme Court reversed our decision, finding that there was no statutory or evidentiary basis to support the circuit court judge's finding of contempt.

Brenco v. S.C. Dep't of Transp., 363 S.C. 136, 609 S.E.2d 531 (Ct. App. 2005), rev'd, 377 S.C. 124, 659 S.E.2d 167 (2008). We affirmed the master-in-equity's refusal to rescind the deed and remanded the case for the master to take additional testimony regarding the landowner's

damages. The South Carolina Supreme Court reversed our decision to remand the case, concluding that the master properly refused to reopen the case to allow the landowner to submit additional evidence.

Cannon v. S.C. Dep't of Prob., Parole & Pardon Servs., 361 S.C. 425, 604 S.E.2d 709 (Ct. App. 2004), rev'd, 371 S.C. 581, 641 S.E.2d 429 (2007). We affirmed the circuit court judge's order that declared the South Carolina DNA Act (Act), which required parolees to submit a DNA sample as a condition of parole, was applicable to the appellant who was paroled prior to the effective date of the Act. The South Carolina Supreme Court disagreed and reversed our decision after finding the Act inapplicable to the appellant.

Upchurch v. Upchurch, 359 S.C. 254, 597 S.E.2d 819 (Ct. App. 2004), aff'd in part and rev'd in part by 367 S.C. 16, 624 S.E.2d 643 (2006). We dismissed the wife's appeal of a family court judge's order on the ground that the notice of appeal was not timely served. The South Carolina Supreme Court found the appeal was timely and addressed the merits of the appeal.

State v. Reese, 359 S.C. 260, 597 S.E.2d 169 (Ct. App. 2004), aff'd in part and rev'd in part by 370 S.C. 31, 633 S.E.2d 898 (2006). We reversed the defendant's murder conviction because we found the prosecutor's improper jury argument was sufficiently prejudicial to warrant a new trial. Additionally, we held that the trial judge committed reversible error by failing to charge the jury on involuntary manslaughter. Although the South Carolina Supreme Court affirmed our decision as to the prosecutor's improper closing argument, it disagreed that the defendant was entitled to a jury instruction on involuntary manslaughter.

Hardin v. S.C. Dep't of Transp., 359 S.C. 244, 597 S.E.2d 814 (Ct. App. 2004), rev'd, 371 S.C. 598, 641 S.E.2d 437 (2007). In this inverse condemnation proceeding, we affirmed the circuit court judge's finding that the South Carolina Department of Transportation's actions of reconfiguring a divided public highway intersection constituted a compensable taking. The South Carolina Supreme Court disagreed and reversed our decision, finding that the reconfiguration of a road did not constitute a taking because the property owners continued to have access to and from the public road system.

State v. Childers, 358 S.C. 614, 595 S.E.2d 872 (Ct. App. 2004), aff'd in part and rev'd in part by 373 S.C. 367, 645 S.E.2d 233 (2007). Although we affirmed the circuit court judge's decision to deny the defendant's request to relieve his trial counsel, we reversed the defendant's conviction of murder on the ground that the judge erred in declining to charge the jury on voluntary manslaughter. The South Carolina Supreme Court

reversed the portion of our decision regarding the voluntary manslaughter charge because it determined the evidence did not warrant this charge.

Matthews v. Richland Cnty. Sch. Dist. One, 357 S.C. 594, 594 S.E.2d 177 (Ct. App. 2004), overruled by Elam v. S.C. Dep't of Transp., 361 S.C. 9, 602 S.E.2d 772 (2004). In Matthews, we dismissed the school district's appeal of an order entering judgment in favor of an employee for unpaid wages as the school district's successive post-trial motions did not operate to toll the time for the appeal of the order. In Elam, the South Carolina Supreme Court clarified the time limits regarding the filing of post-trial motions. Based on this clarification, the South Carolina Supreme Court overruled our decision in Matthews because it was inconsistent with the Court's view of post-trial motions.

Williamsburg Rural Water & Sewer Co. v. Williamsburg Cnty. Water & Sewer Auth., 357 S.C. 251, 593 S.E.2d 154 (Ct. App. 2003), rev'd, 367 S.C. 566, 627 S.E.2d 690 (2006). In this declaratory judgment action, a rural water and sewer company contended the county violated its exclusive right to provide water and sewer service within designated unincorporated areas of the county. We affirmed the circuit court judge's order that granted summary judgment in favor of the county. The South Carolina Supreme Court disagreed with our interpretation of the applicable statute, concluding that the company acquired the exclusive right to operate water and sewer systems in the designated areas.

Barnes v. Cohen Dry Wall, Inc., 357 S.C. 280, 592 S.E.2d 311 (Ct. App. 2003), rev'd, Marcum v. Bowden, 372 S.C. 452, 643 S.E.2d 85 (2007). In Barnes, the estate of a passenger who was killed while he was driving with an intoxicated minor brought a negligence action against the minor's employer on the ground that the employer served alcohol to the minor at a party sponsored by the employer. We affirmed the jury's verdict in favor of the estate. In Marcum, a case similar to Barnes, the South Carolina Supreme Court recognized a common law duty that an adult social host who knowingly and intentionally serves, or causes to be served, alcoholic beverages to a person he knows or reasonably should know is underage is liable to the guest and any other person for damages proximately resulting from the host's service of alcohol. Because the decision in Marcum created tort liability where formerly there was none, the South Carolina Supreme Court reversed our decision in Barnes.

Evening Post Publ'g Co. v. City of N. Charleston, 357 S.C. 59, 591 S.E.2d 39 (Ct. App. 2003), rev'd, 363 S.C. 452, 611 S.E.2d 496 (2005). The newspaper filed a Freedom of Information Act (FOIA) request seeking access to 911 tapes the city had in its possession regarding a shooting death. We affirmed the circuit court judge's denial of the newspaper's request based on a specific exemption under South Carolina law. The

South Carolina Supreme Court disagreed with our statutory interpretation and found the city's denial of the newspaper's request violated the FOIA.

Townsend v. Townsend, 356 S.C. 70, 587 S.E.2d 118 (Ct. App. 2003), disapproved by Miles v. Miles, 393 S.C. 111, 711 S.E.2d 880 (2011). In Townsend, we reversed the family court judge's reduction of the father's child support obligation. In Miles, the South Carolina Supreme Court disavowed the line of cases including Townsend, which placed an extremely high burden on a party seeking modification of child support when a divorce agreement was at issue.

Overcash v. S.C. Elec. & Gas Co., 356 S.C. 165, 588 S.E.2d 116 (Ct. App. 2003), rev'd, 364 S.C. 569, 614 S.E.2d 619 (2005). Based on the governing South Carolina law, we found that a boater could pursue a private cause of action for public nuisance against a utility company for injuries he sustained when his boat collided with a dock that was known by the utility company to obstruct a navigable waterway. The South Carolina Supreme Court reversed our decision, concluding that the South Carolina legislature did not create a private right of action.

South Carolina Seventh Judicial Circuit Court:

I estimate my reversal rate was relatively low as a circuit court judge. However, I am unable to provide a numerical percentage. Because copies of the judgments or orders are maintained by the Clerk of Court in each of the county circuits throughout the state of South Carolina, they are not readily available for the approximately 4,000 cases that I presided over. I have included the appellate citations for the matters that were appealed.

Dearybury v. State, 367 S.C. 34, 625 S.E.2d 212 (2006). The petitioner was convicted of criminal domestic violence and sought post-conviction relief. I denied the petitioner's application. The South Carolina Supreme Court affirmed my finding that the petitioner appeared pro se, but remanded for a hearing to determine whether the petitioner knowingly and voluntarily waived his right to counsel.

Wilson v. Rivers, 357 S.C. 447, 593 S.E.2d 603 (2004). I presided over the jury trial and entered judgment of the verdict in favor of a passenger injured in an automobile collision. The South Carolina Court of Appeals affirmed. The South Carolina Supreme Court reversed, ruling that the defendant should have been permitted to offer expert witness testimony that was based on biomechanics.

Williamson v. S.C. Ins. Reserve Fund, 355 S.C. 420, 586 S.E.2d 115 (2003). In this case, the parents of a child who was injured at birth brought suit against the two doctors that examined the mother during childbirth and the county health agency that employed the doctors. After

the parties reached a settlement agreement that involved stipulated damages, I ruled on the declaratory judgment action that was brought to determine issues regarding the defendants' liability under the South Carolina Tort Claims Act (Act). I held that the plaintiffs were entitled to collect the full amount of the stipulated damages, but that the monetary caps in the Act applied to the plaintiffs' claims. I also found that the liability insurance provider was obligated to pay the amount of the damages. Although the South Carolina Supreme Court affirmed the majority of my rulings, it reversed my decision regarding the monetary caps as the plaintiffs' claims arose or accrued before the effective date of the Act.

State v. Arnold, 351 S.C. 302, 569 S.E.2d 370 (Ct. App. 2002), aff'd, 361 S.C. 386, 605 S.E.2d 529 (2004). I presided over the defendant's murder trial and denied the defendant's motion for a directed verdict. The South Carolina Court of Appeals reversed the defendant's conviction, finding that there was insufficient evidence to support the charge of murder. The South Carolina Supreme Court affirmed the decision of the Court of Appeals.

State v. Burkhardt, 350 S.C. 252, 565 S.E.2d 298 (2002). I presided over the defendant's capital jury trial during which he was convicted of three counts of murder and three counts of possession of a firearm during the commission of a violent crime. The South Carolina Supreme Court reversed the defendant's convictions and remanded for a new trial on the ground that the defendant was entitled to a jury instruction that the State had the burden of disproving self-defense by proof beyond a reasonable doubt.

Brannon v. State, 345 S.C. 437, 548 S.E.2d 866 (2001). After the defendant pled guilty to armed robbery, he filed an application for post-conviction relief (PCR) and requested a sentence reduction. When I advised the petitioner that I did not have the authority to reduce his sentence, he moved to withdraw his PCR application. I granted the motion in a summary order. The South Carolina Supreme Court remanded the matter, concluding that an evidentiary hearing was required to determine whether the petitioner knowingly and voluntarily withdrew his PCR application.

Clemson Univ. v. Speth, 344 S.C. 310, 543 S.E.2d 572 (Ct. App. 2001). The defendant was convicted in municipal court for unlawfully parking in a designated handicapped space. On appeal, I reversed and remanded for a new trial, concluding that the jury should have been charged with the statutory definition of "park." The South Carolina Court of Appeals reversed and reinstated the defendant's conviction, finding that the trial judge properly refused the defendant's requested jury instruction.

Davis v. Orangeburg-Calhoun Law Enforcement Comm'n, 344 S.C. 240, 542 S.E.2d 755 (Ct. App. 2001). After an employee was terminated from his job with a county law enforcement commission, he filed an action for breach of his employment contract. I presided over the jury trial and entered the jury's verdict in favor of the employee. The South Carolina Court of Appeals reversed, concluding that the employer's motion for a directed verdict should have been granted given that the employee failed to present sufficient evidence to establish that the employee's at-will status had been altered.

Butler v. Town of Edgefield, 328 S.C. 238, 493 S.E.2d 838 (1997). This case involved a dispute over a municipal election. I vacated the results of the election and ordered a new election because the election proceedings violated the governing South Carolina statutes. The South Carolina Supreme Court reversed my decision and vacated my order. The Court held that two of the grounds raised by the political candidate were not proper for an election protest, a hearing was not required on the candidate's challenge, certain allegations were not proper for consideration, and the candidate lacked standing to challenge the election results under the state's Voter Rights Act.

Scholtec v. Estate of Reeves, 327 S.C. 551, 490 S.E.2d 603 (Ct. App. 1997). On appeal, I reversed the probate court's order and held that an exemption for the proceeds of a bodily injury settlement survived the decedent's death and could be claimed by the decedent's spouse and adult children against a creditor. The South Carolina Court of Appeals disagreed with my interpretation, finding that the exemption terminated upon death.

State v. Lesley, 326 S.C. 641, 486 S.E.2d 276 (Ct. App. 1997). The defendant, who was charged with unlawful possession of a firearm, trafficking in crack cocaine, and trafficking within proximity of a school, moved to suppress the drug evidence seized from his vehicle following a traffic stop. I granted the motion to suppress on the ground that there was no reasonable basis to support the initial stop. The South Carolina Court of Appeals reversed my decision and remanded for a new trial.

- g. Provide a description of the number and percentage of your decisions in which you issued an unpublished opinion and the manner in which those unpublished opinions are filed and/or stored.

While serving as a circuit court judge, I estimate that I presided over more than 4,000 cases. None of the decisions in these cases were published. The decisions are not readily available as they are maintained by the Clerk of Court in each of the county circuits throughout the state of South Carolina.

During my tenure as a judge on the South Carolina Court of Appeals and a justice on the South Carolina Supreme Court, I estimate that approximately 10% of the decisions were unpublished. I would note that these unpublished decisions are designated as “Per Curiam” opinions. All unpublished decisions issued between 2004 and the present may be accessed via the South Carolina Judicial Department’s website through the unpublished decision database. Unpublished decisions issued prior to 2004 may be found in the Clerk’s Office for the South Carolina Court of Appeals and the South Carolina Supreme Court.

- h. Provide citations for significant opinions on federal or state constitutional issues, together with the citation to appellate court rulings on such opinions. If any of the opinions listed were not officially reported, provide copies of the opinions.

This list contains decisions that I authored as a justice on the South Carolina Supreme Court involving significant federal or state constitutional issues:

State v. Counts, 413 S.C. 153, 776 S.E.2d 59 (2015)
In re Kevin R., 409 S.C. 297, 762 S.E.2d 387 (2014)
Doe v. S.C. Dep’t of Soc. Servs., 407 S.C. 623, 757 S.E.2d 711 (2014)
S.C. Dep’t of Soc. Servs. v. Michelle G., 407 S.C. 499, 757 S.E.2d 388 (2014)
McHam v. State, 404 S.C. 465, 746 S.E.2d 41 (2013)
Ware v. Ware, 404 S.C. 1, 743 S.E.2d 817 (2013)
State v. Brown, 401 S.C. 82, 736 S.E.2d 263 (2012)
Howard v. S.C. Dep’t of Corrs., 399 S.C. 618, 733 S.E.2d 211 (2012)
State v. Binnarr, 400 S.C. 156, 733 S.E.2d 890 (2012)
State v. Green, 397 S.C. 268, 724 S.E.2d 664 (2012)
State v. Brandt, 393 S.C. 526, 713 S.E.2d 591 (2011)
Sea Cove Dev. v. Harborside Cmty. Bank, 387 S.C. 95, 691 S.E.2d 158 (2010)
State v. Neuman, 384 S.C. 395, 683 S.E.2d 268 (2009)
O’Brien v. S.C. ORBIT, 380 S.C. 38, 668 S.E.2d 396 (2008)
State v. McGrier, 378 S.C. 320, 663 S.E.2d 15 (2008)
Moore v. Moore, 376 S.C. 467, 657 S.E.2d 743 (2008)

- i. Provide citations to all cases in which you sat by designation on a federal court of appeals, including a brief summary of any opinions you authored, whether majority, dissenting, or concurring, and any dissenting opinions you joined.

None.

14. **Recusal:** If you are or have been a judge, identify the basis by which you have assessed the necessity or propriety of recusal (If your court employs an “automatic” recusal system by which you may be recused without your knowledge, please include a general description of that system.) Provide a list of any cases, motions or matters that have come before you in which a litigant or party has requested that you recuse yourself due to an asserted conflict of interest or in which you have recused yourself sua sponte. Identify each such case, and for each provide the following information:

- a. whether your recusal was requested by a motion or other suggestion by a litigant or a party to the proceeding or by any other person or interested party; or if you recused yourself sua sponte;
- b. a brief description of the asserted conflict of interest or other ground for recusal;
- c. the procedure you followed in determining whether or not to recuse yourself;
- d. your reason for recusing or declining to recuse yourself, including any action taken to remove the real, apparent or asserted conflict of interest or to cure any other ground for recusal.

South Carolina courts do not utilize an automatic recusal system. However, the appellate courts have adopted a practice of allowing a judge to list attorneys, law firms, or businesses where an appearance of a conflict of interest might arise. On occasion, I have provided a list of names and requested that cases involving these litigants not be assigned to me. Additionally, it was my practice to advise litigants of any relationship that I had with the parties or their attorneys and inquire about recusal. My approach to recusal is guided by the overarching principle to avoid any appearance of impropriety. I have not recused sua sponte, nor have I been asked to recuse in any particular case.

At the South Carolina Solicitors' Conference in September 2013, I was asked by the organizers to discuss prosecutorial misconduct. In my remarks, I used examples from actual cases arising from the state solicitor's office in the Ninth Judicial Circuit. These cases resulted in the suspension of the prosecutors' law licenses. I also discussed the South Carolina Supreme Court's 4-1 decision in State v. Langford, 400 S.C. 421, 735 S.E.2d 471 (2012) (Hearn, J.), which had held that the prosecutor's sole control of the criminal docket violated the South Carolina Constitution. In response to my remarks, Solicitor Scarlett Wilson of the Ninth Judicial Circuit wrote a letter to South Carolina Attorney General Alan Wilson in October 2013 suggesting that he make a blanket request that I recuse myself in criminal cases prosecuted by her office. Solicitor Wilson also provided this letter to media outlets. In November 2013, Solicitor David Pascoe of the First Judicial Circuit and eleven other state solicitors submitted another letter suggesting that the Attorney General make a blanket recusal request. Attorney General Wilson denied the requests, saying that his research of the law did not support recusal in this situation. Neither Solicitor Wilson nor the Attorney General of South Carolina has ever requested my recusal in subsequent cases. Since the complaint, the president of the Solicitors' Association, David Pascoe, has dropped his opposition and now openly supports me.

15. Public Office, Political Activities and Affiliations:

- a. List chronologically any public offices you have held, other than judicial offices,

including the terms of service and whether such positions were elected or appointed. If appointed, please include the name of the individual who appointed you. Also, state chronologically any unsuccessful candidacies you have had for elective office or unsuccessful nominations for appointed office.

From 1991 to 1995, I served three two-year terms as an elected member of the South Carolina General Assembly for District 31.

From 1988 to 1991, I served two two-year terms as an elected member of the City Council for District 5 of the City of Spartanburg, South Carolina.

I have never been an unsuccessful candidate for elective or appointed office.

- b. List all memberships and offices held in and services rendered, whether compensated or not, to any political party or election committee. If you have ever held a position or played a role in a political campaign, identify the particulars of the campaign, including the candidate, dates of the campaign, your title and responsibilities.

Other than my own campaigns, I have not held offices in or rendered services to any political party, election committee, or candidate.

16. **Legal Career:** Answer each part separately.

- a. Describe chronologically your law practice and legal experience after graduation from law school including:

- i. whether you served as clerk to a judge, and if so, the name of the judge, the court and the dates of the period you were a clerk;

I did not serve as a law clerk to a judge.

- ii. whether you practiced alone, and if so, the addresses and dates;

1981 – 1989

Beatty Law Firm (now defunct)
Spartanburg, South Carolina
Solo Practitioner

1990 – 1995

Beatty Law Firm (now defunct)
Gaffney, South Carolina
and
Spartanburg, South Carolina
Solo Practitioner

- iii. the dates, names and addresses of law firms or offices, companies or governmental agencies with which you have been affiliated, and the nature of your affiliation with each.

1979 – 1981

Neighborhood Legal Assistance Program (now defunct)
Conway, South Carolina
Associate

1981 – 1989

Beatty Law Firm (now defunct)
Spartanburg, South Carolina
Solo Practitioner

June 1989 – December 1989

Beatty, Vick and Tullis (now defunct)
Spartanburg, South Carolina
Partner

1990 – 1995

Beatty Law Firm (now defunct)
Gaffney, South Carolina
and
Spartanburg, South Carolina
Solo Practitioner

- iv. whether you served as a mediator or arbitrator in alternative dispute resolution proceedings and, if so, a description of the 10 most significant matters with which you were involved in that capacity.

I have never served as a mediator or arbitrator.

b. Describe:

- i. the general character of your law practice and indicate by date when its character has changed over the years.

I had a general practice that primarily consisted of family law, criminal defense, and personal injury law. I also was on retainer for a number of businesses for which I drafted and negotiated contracts, provided litigation defense, and performed regulatory work on an as-needed basis. During the last ten years of my practice, I concentrated on personal injury cases and family law.

- ii. your typical clients and the areas at each period of your legal career, if any, in which you have specialized.

My typical client was someone who had been injured on the job, in an automobile collision, or was seeking Social Security disability. Additionally, I represented an appreciable number of family law and criminal defense clients. I also had retainer agreements with five business clients and provided services on an as-needed basis. The businesses were involved in construction, asset recovery, food service, and waste management.

- c. Describe the percentage of your practice that has been in litigation and whether you appeared in court frequently, occasionally, or not at all. If the frequency of your appearances in court varied, describe such variance, providing dates.

I appeared in court on a very frequent basis as a result of my criminal defense and family law clients. My personal injury cases often required court appearances, but most cases ultimately settled. This was typical throughout my career as a private practitioner. The following percentages are indicative of my practice throughout my legal career:

- i. Indicate the percentage of your practice in:

- | | |
|-----------------------------|-----|
| 1. federal courts: | 0% |
| 2. state courts of record: | 80% |
| 3. other courts: | 0% |
| 4. administrative agencies: | 20% |

- ii. Indicate the percentage of your practice in:

- | | |
|--------------------------|-----|
| 1. civil proceedings: | 60% |
| 2. criminal proceedings: | 40% |

- d. State the number of cases in courts of record, including cases before administrative law judges, you tried to verdict, judgment or final decision (rather than settled), indicating whether you were sole counsel, chief counsel, or associate counsel.

As a solo practitioner, I served as lead counsel in 95% of my cases. On occasion, I would act as associate counsel in areas of the law with which I was less familiar, such as bankruptcy. Giving due consideration to the volume of criminal defense and family law cases, in addition to the personal injury cases and appearances before administrative agencies, I would estimate that I tried approximately 1,000 cases to final verdict or decision over a 15-year period in private practice.

- i. What percentage of these trials were:

- | | |
|----------|-----|
| 1. jury: | 20% |
|----------|-----|

2. non-jury:

80%

- e. Describe your practice, if any, before the Supreme Court of the United States. Supply four (4) copies of any briefs, amicus or otherwise, and, if applicable, any oral argument transcripts before the Supreme Court in connection with your practice.

I have never practiced before the Supreme Court of the United States.

17. **Litigation**: Describe the ten (10) most significant litigated matters which you personally handled, whether or not you were the attorney of record. Give the citations, if the cases were reported, and the docket number and date if unreported. Give a capsule summary of the substance of each case. Identify the party or parties whom you represented; describe in detail the nature of your participation in the litigation and the final disposition of the case. Also state as to each case:

- a. the date of representation;
- b. the name of the court and the name of the judge or judges before whom the case was litigated; and
- c. the individual name, addresses, and telephone numbers of co-counsel and of principal counsel for each of the other parties.

Since May 1995, I have not practiced law as I have served as a judge. I closed my law firm in 1995, and after seven years all records were destroyed, as is the practice in South Carolina. Given this significant lapse of time and the lack of readily available records regarding matters that I personally litigated, I have listed four cases that I can recall. I do not recall the dates of these cases or who the attorneys were that represented the State. It has been more than 20 years since these cases were litigated and there has been tremendous personnel turnover in the solicitors' offices.

- 1. State v. Bates. In the Court of General Sessions for Union County, South Carolina, I represented a mentally challenged man who was indicted for multiple drug offenses stemming from an accusation that he was the leader of a drug-dealing ring. After a lengthy trial, a jury acquitted the defendant of all indicted offenses.
- 2. State v. Cunningham. In the Court of General Sessions for Spartanburg County, South Carolina, I represented a defendant who was indicted for the armed robbery of a motel. The judge granted my challenge to the line-up identification as being tainted by the investigating detective and excluded that evidence. The jury acquitted the defendant of the indicted offense.
- 3. State v. Frazier. In the Court of General Sessions for Spartanburg County, South Carolina, I represented a defendant who was indicted with a co-defendant in a

drug-trafficking case. My client was implicated in the case when he unknowingly interacted with a family involved in drug activities. My motion for severance of the trial was granted and the defendant was ultimately acquitted.

4. Harris v. Pentex. Before the South Carolina Worker's Compensation Commission, I represented a claimant who had been persuaded by his employer not to file a worker's compensation claim. The employer, in turn, moved to have the claim barred by the applicable statute of limitations. I was able to successfully challenge that motion and procure benefits for the claimant.

18. **Legal Activities**: Describe the most significant legal activities you have pursued, including significant litigation which did not progress to trial or legal matters that did not involve litigation. Describe fully the nature of your participation in these activities. List any client(s) or organization(s) for whom you performed lobbying activities and describe the lobbying activities you performed on behalf of such client(s) or organizations(s). (Note: As to any facts requested in this question, please omit any information protected by the attorney-client privilege.)

In addition to 15 years of litigation experience in private practice and 21 years as a judge at every level of the state judiciary, I also have served on South Carolina's Sentencing Reform Commission since 2010. The Sentencing Reform Commission partnered with the Pew Foundation to review South Carolina's sentencing practices and criminal laws. Our evidence-based review led the legislature to repeal some of our antiquated criminal laws and to amend others. As a result, violent offenders receive longer prison sentences and non-violent offenders receive shorter sentences. South Carolina also was able to close two prisons and save \$5 million over the last two years.

19. **Teaching**: What courses have you taught? For each course, state the title, the institution at which you taught the course, the years in which you taught the course, and describe briefly the subject matter of the course and the major topics taught. If you have a syllabus of each course, provide four (4) copies to the committee.

In 1994, I was an adjunct professor at Limestone College in Gaffney, South Carolina. I taught Business Law. No syllabus available.

20. **Deferred Income/ Future Benefits**: List the sources, amounts and dates of all anticipated receipts from deferred income arrangements, stock, options, uncompleted contracts and other future benefits which you expect to derive from previous business relationships, professional services, firm memberships, former employers, clients or customers. Describe the arrangements you have made to be compensated in the future for any financial or business interest.

I am eligible for judicial retirement from the South Carolina Judicial System.

21. **Outside Commitments During Court Service**: Do you have any plans, commitments, or agreements to pursue outside employment, with or without compensation, during your service with the court? If so, explain.

I have no plans to pursue outside employment of any kind.

22. **Sources of Income:** List sources and amounts of all income received during the calendar year preceding your nomination and for the current calendar year, including all salaries, fees, dividends, interest, gifts, rents, royalties, licensing fees, honoraria, and other items exceeding \$500 or more (if you prefer to do so, copies of the financial disclosure report, required by the Ethics in Government Act of 1978, may be substituted here).

See Financial Disclosure Report.

23. **Statement of Net Worth:** Please complete the attached financial net worth statement in detail (add schedules as called for).

See Net Worth Statement.

24. **Potential Conflicts of Interest:**

- a. Identify the family members or other persons, parties, categories of litigation, and financial arrangements that are likely – Present potential conflicts-of-interest when you first assume the position to which you have been nominated. Explain how you would address any such conflict if it were to arise.

I do not have any anticipated conflicts of interest.

- b. Explain how you will resolve any potential conflict of interest, including the procedure you will follow in determining these areas of concern.

In the event of a potential conflict of interest, I would refer to Canon 3E of the Code of Conduct for United States Judges.

25. **Pro Bono Work:** An ethical consideration under Canon 2 of the American Bar Association's Code of Professional Responsibility calls for "every lawyer, regardless of professional prominence or professional workload, to find some time to participate in serving the disadvantaged." Describe what you have done to fulfill these responsibilities, listing specific instances and the amount of time devoted to each.

My first job was as an attorney with the Neighborhood Legal Assistance Program. In addition to my regular duties, I volunteered to take on additional cases in Social Security disability and heirs' property retention. I also conducted clinics on wills and testaments. After leaving the Neighborhood Legal Assistance Program to start my own practice, I continued to do pro bono work in these areas, and continued to do so until I took the bench.

Being a judge necessarily restricts my involvement in pro bono matters. I have, however, been able to maintain some involvement in pro bono work. I am a current member of the

South Carolina Access to Justice Commission and serve as a resource person in several elementary and middle schools. Our Access to Justice Commission is tasked with facilitating access to the courts for the poor and working poor. In that regard, we arrange regional pro bono summits with local bar associations in an effort to increase pro bono participation by local lawyers. Additionally, we have created a pilot program that established a self-help center in a county court house. The center provides easy to complete pleading forms for simple legal matters. Use of these forms eliminates the need for a lawyer. If successful, this program will be expanded throughout the state of South Carolina. I also am involved in the National Center for State Courts' Justice Case Files Program, an effort to increase civic education among our youth. This program includes sessions focusing on cases and features of the judicial process such as jury duty, stolen identity, and Internet piracy.

26. Selection Process:

- a. Please describe your experience in the entire judicial selection process, from beginning to end (including the circumstances which led to your nomination and the interviews in which you participated). Is there a selection commission in your jurisdiction to recommend candidates for nomination to the federal courts? If so, please include that process in your description, as well as whether the commission recommended your nomination. List the dates of all interviews or communications you had with the White House staff or the Justice Department regarding this nomination. Do not include any contacts with Federal Bureau of Investigation personnel concerning your nomination.

On July 4, 2014, I spoke with Congressman Clyburn by phone, and in August 2014, I spoke with Senator Scott by phone regarding this vacancy. In August 2014, Congressman Clyburn informed me that he was going to recommend me to the President. At that time, I was advised that Senator Graham was in agreement with this decision. Since August 27, 2014, I have been in contact with officials from the Office of Legal Policy at the Department of Justice. On October 1, 2014, I interviewed with attorneys from the White House Counsel's Office and the Department of Justice in Washington, D.C. On February 25, 2016, I met with Senator Scott in Washington, D.C. to discuss the vacancy. That same day, the President submitted my nomination to the Senate.

- b. Has anyone involved in the process of selecting you as a judicial nominee discussed with you any currently pending or specific case, legal issue or question in a manner that could reasonably be interpreted as seeking any express or implied assurances concerning your position on such case, issue, or question? If so, explain fully.

No.