

UNITED STATES SENATE
COMMITTEE ON THE JUDICIARY

QUESTIONNAIRE FOR JUDICIAL NOMINEES

PUBLIC

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

Timothy Martin Cain

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.

Oconee County Courthouse
P.O. Box 678
205 West Main Street
Walhalla, South Carolina 29691

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

1961; Seneca, 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.

1983 – 1986, University of South Carolina School of Law; J.D., 1986

1981 – 1983, University of South Carolina; B.S., 1983

1979 – 1980, Anderson College; no degree received

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.

2000 – present
South Carolina Judicial Department
1015 Sumter Street
Columbia, South Carolina 29201
Family Court Judge

1993 – 2000
Timothy M. Cain, P.A.
339 ByPass 123
P.O. Box 698
Seneca, South Carolina 29679
Owner (professional association established for purpose of representing my interest in the
LLPs with which I practiced during this period; the association ceased activity in 2000
and was formally dissolved in 2003)

1992 – 2000
Oconee County
415 South Pine Street
Walhalla, South Carolina 29691
County Attorney (served as appointed County Attorney while maintaining my private law
practice)

1998 – 2000
Fedder, Cain and Norton, L.L.P.
339 ByPass 123
P.O. Box 698
Seneca, South Carolina 29679
Partner

1996 – 1998
Ballenger, Fedder, Cain and Norton, L.L.P.
339 ByPass 123
P.O. Box 698
Seneca, South Carolina 29679
Partner

1993 – 1996
Fedder & Cain
339 ByPass 123
P.O. Box 698
Seneca, South Carolina 29679
Partner

1991 – 1993
Brandt, Fedder, Graham & Cain
339 ByPass 123
P.O. Box 698
Seneca, South Carolina 29679
Partner

1990 – 1991
Brandt & Fedder
339 ByPass 123
P.O. Box 698
Seneca, South Carolina 29679
Associate

1988 – 1989
Solicitor's Office, Tenth Judicial Circuit
Oconee County Courthouse
211 West Main Street
Walhalla, South Carolina 29691
Assistant Solicitor

1986 – 1988
Miley & Macaulay (firm became known as Miley, Macaulay & Cain during this time)
P.O. Drawer 428
Walhalla, South Carolina 29691
Associate

1987
Oconee Defender Corporation
N. Gruber Sires, Jr., Public Defender
P.O. Box 1277
Seneca, South Carolina 29679
Assistant Public Defender

1985 – 1986
Fifth Circuit Solicitor
1710 Main Street
Columbia, South Carolina 29201
Law Clerk

1985
Kligman & Fleming
1408 Bull Street
Columbia, South Carolina 29201
Law Clerk

1983 – 1985
Office of Resident Student Development
University of South Carolina
1215 Blossom Street
Columbia, South Carolina 29208
Residence Hall Director

1984 – 1985
University of South Carolina
1215 Blossom Street
Columbia, South Carolina 29208
Senior Desk Assistant, Towers Area Office

Summer 1984
South Carolina Employment Security Commission
1550 Gadsen Street
Columbia, South Carolina 29201
Summer Clerk

Summer 1983
Beacon Manufacturing Company
110 Parkview Street
Westminster, South Carolina 29693
Textile Worker

Other Affiliations (uncompensated):

1995 – 2000 (approximate)
Oconee Defender Corporation
805 West Main Street
Walhalla, South Carolina 29691
Board Member

1999
South Carolina Association of County Attorneys
No physical address
Secretary

1996
Oconee County Bar Association
P.O. Box 846
Walhalla, South Carolina 29691
President

1990 – 1994
Carolina-Georgia Blood Center
515 Grove Road
Greenville, South Carolina 29605
Board of Trustees

1989 – 1992
United Way of Oconee County
409 East North 1st Street
Seneca, South Carolina 29678
Board of Directors

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.

I did not serve in the armed forces. I registered with the Selective Service.

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.

Recognition and award for service as County Attorney for Oconee County, 2000
Award for Outstanding Community Service, Board of Trustees, Carolina-Georgia Blood Center, 1994

Honorary Membership, Oconee Chapter, Fraternal Order of Police, 1993

Doyle Memorial Scholarship, 1979 – 1986

Moot Court, University of South Carolina School of Law, 1985

Citation for Academic Excellence in Scholarly Writing, given by the Faculty, College of Criminal Justice, University of South Carolina, 1984

Alpha Phi Sigma, National Criminal Justice Honor Society, 1981 – 1983

South Carolina Criminal Justice Association, 1981 – 1983

Dean's List, 1980 – 1982

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.

Anderson County Bar Association, 2000 – present

Family Court Advisory Committee to the Chief Justice of the South Carolina Supreme Court, 2009 – present

National Council of Juvenile and Family Court Judges, 2000 – present

Oconee County Bar Association, 1986 – present

President, 1996

Family Court Bench-Bar Liaison Committee, 1998 – 2000

Committee to study preliminary hearing procedures in criminal cases in Oconee County, 1991
Oconee County Magistrate Selection Advisory Committee, 1993
Oconee Defender Corporation
Board Member, approx. 1995 – 2000
South Carolina Association of County Attorneys, 1997 – 2000
Secretary, 1999
South Carolina Bar Association, 1986 – present.
South Carolina Conference of Family Court Judges, 2000 – present
Member, Brown-Buchan-Jacobs Achievement Award Committee, 2008 – present
South Carolina Families for Kids Bench-Bar II Conference, 2002

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, 1986

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, 1993
South Carolina Supreme Court, 1986
South Carolina State Courts, 1986

There have been no lapses 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.

Carolina-Georgia Blood Center
Board of Trustees, 1990 – 1994
Chickasaw Point Property Owners' Association, 1993 – present
Falcon's Lair Community Service Association, 2004 – present

Local Elementary School

Parent-Teacher Student Team, 2001 – 2007

School Improvement Council, 2005 – 2007

Local Middle School

Parent-Teacher Organization, 2007 – 2010

Oconee Assembly, approximately 1999 – 2009

Phi Alpha Delta Law Fraternity, International, 1984 – 1986

Saint Luke United Methodist Church, Walhalla, SC

Administrative Council, 1994 – 1995; 1997 – 1998; 2011

Chair, Pastor-Parish Relations Committee, 2002 – 2004

Member, Finance Committee, Administrative Council, 2002 – 2004

Member, Community Outreach Committee, 2006 – 2007; 2011 (Chair)

SC First Steps To School Readiness

Oconee County First Steps Partnership Selection Forum, 2000

United Way of Oconee County

Budget Allocations Committee, 1988 – 1989

Board of Directors, 1989 – 1992

- 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.

From 1984 to 1986, I was a member of the Phi Alpha Delta Fraternity. I understand that the Fraternity discriminated on the basis of race until approximately 1950, and on the basis of gender until 1972. It no longer discriminated on these bases when I became a member.

To the best of my knowledge, none of the other organizations listed in question 11a currently discriminates or formerly discriminated on the basis of race, sex, religion or national origin.

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 that I have been able to recall or identify.

- 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.

In 2010, at the request of the general counsel for the South Carolina Guardian *ad Litem* Program, the South Carolina Family Court Advisory Committee to the Chief Justice of the South Carolina Supreme Court endorsed language I authored for inclusion in court orders for substitution of lay guardians or attorneys in child abuse and neglect actions. As a result, this language is now included in such orders issued statewide in South Carolina. A copy of the March 29, 2010 request memo with my language is supplied.

In 2002, I participated in meetings and group discussions with other judges, agency representatives and attorneys as a part of the S.C. Families for Kids Bench-Bar II Committee. These meetings were facilitated by the Children's Law Office, University of South Carolina. The purpose of the committee was to review the current status of statutes and practices, looking for unintended consequences, and possibly recommend new reforms to improve the administration of justice to abused and neglected children and their families. A copy of the May 2002 Interim Recommendations issued by the Committee 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.

November 5, 2009: I testified before the South Carolina Judicial Merit Selection Commission about re-confirmation by the state legislature as a Family Court judge. Additionally, I also submitted a questionnaire to the Commission about my qualifications to be a judge. A copy of my testimony and questionnaire are supplied.

September 22, 2003: I submitted a questionnaire to the Commission about my qualifications to be a judge. I was not required to appear before the Commission in person because no other individuals submitted applications for my seat. A copy of my questionnaire is supplied.

April 4, 2000: I appeared before the Oconee County Council to discuss space problems in the local courthouse. I have no notes, transcript or recording. Press coverage and Council meeting minutes supplied.

November 9, 1999: I testified before the South Carolina Judicial Merit Selection Commission about confirmation by the state legislature as a Family Court judge.

Additionally, I also submitted a questionnaire to the Commission about my qualifications to be a judge. A copy of my testimony and questionnaire are supplied.

During the time I represented the County of Oconee and various municipal governments and local government entities, I was required to give formal and informal legal advice and opinions concerning various matters which often required interpretation of statutory and case law. Legal advice was, at times, provided in open session and at other times, in executive session when warranted.

- 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.

During my time as a practicing attorney, I would, from time to time, be asked to speak to various school, civic and church groups concerning topics such as how to pursue a career in the law, the practice of law or estate planning. Since becoming a judge, I have participated in various Continuing Legal Education Seminars, panel discussions and programs, both at a local level and statewide. The items listed below represent speeches or talks I have identified through searches of my files, internet databases, discussions with others and my memory. I have attempted as best I can to list all such items. However, there may be other speeches, talks or presentations I have been unable to locate or remember.

March 19, 2010: Presenter and panelist, Oconee County Bar Continuing Legal Education Seminar. I introduced guest speaker Lesley Coggiola and also participated in a roundtable discussion entitled, "A View from the Bench," about best practices in court. I have no notes, transcript or recording. The address of the bar association is P.O. Box 846, Walhalla, South Carolina 29691.

February 16, 2010: I administered the oath of office to a group of volunteers who had completed training through the South Carolina Volunteer Guardian *ad Litem* Program. I made some informal remarks prior to administration of the oath but used no outline or notes and have no record or transcript. The address of the program is Division of Children's Services, Office of the Governor, 1205 Pendleton Street, Suite 333, Columbia, South Carolina 29201.

August 26, 2009: I swore in a newly elected Oconee County Council member. I have no notes, transcript or recording. The address for the Council is 415 South Pine Street, Walhalla, South Carolina 29691.

July 7, 2009: I swore in two Oconee County officials, the Auditor and Treasurer. I have no notes, transcript or recording. The address for the officials is 415 South Pine Street, Walhalla, South Carolina 29691.

May 1, 2009: Panelist, Oconee County Bar Continuing Legal Education Seminar. I have no notes, transcript or recording. The address of the bar association is P.O. Box 846, Walhalla, South Carolina 29691.

January 6, 2009: I swore in the new Oconee County Council members. I have no notes, recording or transcript. The address for the Council is 415 South Pine Street, Walhalla, South Carolina 29691.

December 11, 2008: Speaker, West Oak High School Beta Club Induction ceremony for new members. Speech text supplied.

December 4, 2008: Discussion on the three branches of government and how the judicial system works, Calhoun Academy of the Arts, Anderson, South Carolina. I have no notes, transcript or recording. The address of the academy is 1520 East Calhoun Street, Anderson, South Carolina 29621.

2008: Guest lecturer at Anderson University, Department of Criminal Justice - Juvenile Law. I have no notes, transcript or recording. The address of the university is 316 Boulevard, Anderson, South Carolina 29621.

January 2, 2007: I swore in two new Oconee County Council members. I have no notes, recording or transcript. The address for the Council is 415 South Pine Street, Walhalla, South Carolina 29691.

February 24, 2006: Lecturer, Legal Education Seminar, Oconee County Bar. I spoke on Pre-Trial Matters. Materials supplied.

January 4, 2005: I swore in the Oconee County Council members. I have no notes, transcript or recording. The address for the Council is 415 South Pine Street, Walhalla, South Carolina 29691.

December 10, 2004: Speaker, Seminar for Chief Administrative Judges, South Carolina Circuit and Family Courts. My presentation was entitled, "*Ex Parte* Communications." Materials supplied.

December 5, 2003: Seminar faculty, South Carolina Family Court Bench/Bar Continuing Legal Education Program, SC Bar Association. My topic was "Life in Family Court." A copy of my outline is supplied.

March 2002: Discussion on the three branches of government with emphasis on the judicial branch, Westminster Elementary School. I have no notes, transcript

or recording. The address of the school is 206 Hamilton Drive, Westminster, South Carolina 29693.

March 2000: Joint Anderson-Oconee Bar Associations Forum on Practice and Procedure, roundtable discussion, Tri-County Technical College, Pendleton, South Carolina. I have no notes, transcript or recording. The address of the Oconee County Bar Association is P.O. Box 846, Walhalla, South Carolina 29691. The address of the Anderson County Bar Association is c/o Nancy Jo Thomason, P.O. Box 4025, Anderson, South Carolina 29622.

September 2000: Lecturer, continuing legal education seminar at Clemson University. My topic was "A View of Ethics from the Bench." I have no notes, transcript or recording. The address of the university is 109 Daniel Drive, Clemson, South Carolina 29631.

April 14, 2000: Investiture ceremony as Family Court judge. I made brief remarks, but have no notes, transcript or recording. The address of the courthouse is P.O. Box 678, 205 West Main Street, Walhalla, South Carolina 29691.

January 1997: I assisted in the presentation and was one of the moderators of an Ethics Program for the Oconee County Bar entitled, "The Case of the Silent Alarm – A Study in Professionalism." The program was based on a seminar approved by the Georgia State Bar. I have no notes, transcript or recording. The address of the bar association is P.O. Box 846, Walhalla, South Carolina 29691.

From 2006 to 2010, I served as an instructor at the Orientation School for New Family Court Judges. A copy of my most recent outline and materials for these presentations is supplied.

I have also addressed volunteers at training workshops for the South Carolina Volunteer Guardian ad Litem Program periodically since 2001. I have no notes, transcript or recording. The address of the program is Division of Children's Services, Office of the Governor, 1205 Pendleton Street, Suite 333, Columbia, South Carolina 29201.

Additionally, I have occasionally spoken to the Anderson and Oconee County Bar Associations about rules of practice and procedure in Family Court. I have no notes, transcript or recording. The address of the Oconee County Bar Association is P.O. Box 846, Walhalla, South Carolina 29691. The address of the Anderson County Bar Association is c/o Nancy Jo Thomason, P.O. Box 4025, Anderson, South Carolina 29622.

- 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.

As Oconee County Attorney and as a judge, I have spoken with the press on several occasions. I have attempted to create a complete list of articles in which I was quoted through searches of news databases, my files and the Internet. There may, however, be other articles I was unable to recall or locate.

Ray Chandler, *Graham to Push Federal Judgeship for Oconee Family Court Judge Tim Cain*, Anderson Independent-Mail, Aug. 28, 2010. Copy supplied.

Carlos Galarza, *The Catch-22 of Child Support*, The Daily Journal, Aug. 16-17, 2008, at 1A. Copy supplied.

David Williams, *Oconee's Stoudemire Retires After 21 Years from Program Providing Guardians for Children*, Anderson Independent-Mail, Mar. 4, 2008. Copy supplied.

David Williams, *Best 'Wurst' Draws Crowd to Oktoberfest*, Anderson Independent-Mail, Oct. 22, 2005, at B1. Copy supplied.

David Williams, *Oconee Three-Ribbon Rally Raises Abuse Awareness*, Anderson Independent-Mail, Apr. 3, 2004, at B1. Copy supplied.

David Williams, *Animal Control Gets New Officer*, Anderson Independent-Mail, Dec. 16, 1999. Copy supplied.

David Williams, *Negotiations for Newry to Continue*, Anderson Independent-Mail, Sept. 2, 1999. Copy supplied.

Pat Willis, *Graham Keeps Moving Ahead*, Augusta Chronicle, Mar. 14, 1999, at A19. Copy supplied.

Terry Cregar, *Oconee May Subsidize Seneca for Newry Sewer Service*, Greenville News, Jan. 23, 1999, at 1B. Copy supplied.

Terry Cregar, *Oconee Sheriff Sued Over Arrest*, Greenville News, Jan. 6, 1999, at 2B. Copy supplied.

Brian Suber, *Oconee Approves Land Sale to Pickens for Treatment Facility*, Anderson Independent-Mail, July 3, 1998. Copy supplied.

In August 2006, I was interviewed by a representative of GQ Magazine but was not quoted in the subsequent article.

Additionally, Duke Energy Corporation operates a nuclear power facility in Oconee County, S.C. Pursuant to federal law and regulations, the company is required to cooperate with local governments in the establishment of emergency

operation procedures to be implemented in case of an event at its facility which would require public notification and action, to include evacuation of affected areas, if necessary. As general counsel for Oconee County, I was designated as a Public Information Officer to assist in the coordination and dissemination of information to the public in the event of an emergency requiring some action. Although I do not recall making and have not located any public statements or announcements made by me in this capacity, there may have been occasions that public announcements or statements were made or interviews given as a part of regular training exercises in which I participated.

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.

In 2000, I was elected to serve as a Family Court Judge, Tenth Judicial Circuit, by the South Carolina General Assembly and fulfilled the unexpired term of my predecessor. The General Assembly re-elected me to the Family Court Bench in 2004 and 2010.

The South Carolina Family Court has jurisdiction to address all issues involving domestic or family relationships. This includes cases concerning marriage, divorce, child custody, visitation rights, support, alimony, child abuse and neglect, termination of parental rights, adoption, division of marital property, change of name, protection of vulnerable adults, actions involving the Uniform Child Custody Jurisdiction and Enforcement Act, the enforcement of Orders issued under Title IV-D of the Social Security Act and the Uniform Interstate Family Support Act and related matters. This Court generally has exclusive jurisdiction over minors under the age of seventeen alleged to have violated any state law or municipal ordinance, and the waiver of certain cases to adult criminal court.

The Chief Justice of the South Carolina Supreme Court appointed me to serve as the Chief Administrative Judge for the Family Court, Tenth Judicial Circuit, in 2005, 2008 and 2011.

I have also served, by designation of the Chief Justice, as an Acting Associate Justice for the South Carolina Supreme Court on several occasions.

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

The types of hearings in Family Court include motions for temporary relief, contempt hearings and trials. Contested trials may last from fifteen minutes to two weeks. I have presided and conducted trials in seventeen counties throughout the State of South Carolina, and I would estimate that I have presided in approximately 10,000 hearings, including approximately 6,000 trials.

- i. Of these, approximately what percent were:

jury trials:	0%
bench trials:	100%
civil proceedings:	75%
criminal proceedings:	25%

Pursuant to South Carolina law, actions in Family Court are tried before a judge without a jury.

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

In my capacity as a Family Court Judge, I have issued numerous decisions at the trial court level. I have attempted to compile a list of all of my opinions, but due to limitations inherent in the court's storage practices and technological capabilities, I was unable to generate an exhaustive list. The attached lists represent my best efforts to supply citations to as many of my opinions as is possible.

(The attached list does not include rulings made from the bench and incorporated into an order drafted by counsel, or cases in which I prepare an Order Memorandum setting forth rulings on factual and legal issues which is sent to the attorneys with a request that an order be prepared incorporating those rulings. Lists of citations for these additional categories of decisions are available upon request.)

In addition, in my capacity as an Acting Associate Justice for the South Carolina Supreme Court, I have concurred in the following opinions:

Hopper v. Terry Hunt Constr., 383 S.C. 310, 680 S.E.2d 1 (2009).

Law Firm of Paul L. Erickson, P.A. v. Boykin, 383 S.C. 497, 681 S.E.2d 575 (2009).

Eldridge v. South Carolina Dep't of Transp., 384 S.C. 548, 683 S.E.2d 483 (2009).

Hiott v. South Carolina, 381 S.C. 622, 674 S.E.2d 491 (2009).

State v. Sweat and *State v. Bryant*, 386 S.C. 339, 688 S.E.2d 569 (2010).

- 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).

I have served as a Family Court Judge and Chief Administrative Judge for the Family Court of the Tenth Judicial Circuit. I have also been designated by the Chief Justice of the South Carolina Supreme Court to preside over certain cases having notoriety filed outside of my home circuit and have served as an Acting Associate Justice on the South Carolina Supreme Court. Due to the volume of cases heard, it would be difficult to designate which of these are most significant. However, following is a list of cases that may provide a view of the type of issues I have addressed as a judge.

(1) *Eckstein v. Eckstein*, No. 99-DR-42-4914. This case involved a determination of jurisdiction pursuant to the Uniform Child Custody Jurisdiction Act. A finding was needed as to whether the State of South Carolina or the State of Oklahoma had jurisdiction to hear and determine a child custody matter. Upon applying the factors set forth in the statute, I determined that Oklahoma was the home state of the minor child and entered an Order which stayed the custody proceedings in South Carolina upon condition that a custody proceeding be commenced in the State of Oklahoma within sixty days.

Richard W. Vieth, attorney for Plaintiff
360 East Henry Street
Spartanburg, SC 29302
(864) 582-2962

Jack W. Lawrence, attorney for Defendant
P.O. Box 5722
Spartanburg, SC 29304
(864) 583-5057

(2) *Roddy v. Cleveland*, No. 2000-DR-42-2838, Judgment Roll No. 248707. This case involved an action for termination or reduction of alimony. I ruled that the Plaintiff did not prove, by a preponderance of evidence, that a substantial and material change of conditions had occurred since entry of the prior alimony award. My Order was appealed to the South Carolina Court of Appeals. The ruling was affirmed in No. 03-UP-117 (S.C. Ct. App. 2003).

J. Benjamin Stevens, attorney for Plaintiff
128 Magnolia Street
Spartanburg, SC 29306
(864) 598-9172

Jim S. Brooks, attorney for Defendant
P.O. Box 6443
Spartanburg, SC 29304
(864) 316-1967

(3) *Boatright v Hurt*, No. 2002-DR-07-572. This case involved an action for a change of custody of a six-year-old minor child. This was a highly contested matter that involved testimony from numerous experts. The trial lasted for eight days and required numerous procedural and evidentiary rulings. Custody was awarded to the Defendant.

Sally G. Calhoun, counsel for Plaintiff
920 Bay Street, Suite 25
Beaufort, SC 29902
(843) 522-3875

Ken H. Lester, counsel for Defendant
1901 Gadsden Street
Columbia, SC 29201
(803) 252-4700

McLaurin S. Saunders, counsel for Defendant
308 Harden Street
Columbia, SC 29205-3148
(803) 779-0288

Joab M. Dowling, Jr., Guardian *ad Litem* (deceased)

(4) *Peeler v. Peeler*, No. 2005-DR-04-2714. This action involved the contested issues of divorce, equitable distribution of property and debt, attorney fees and costs and alimony. It was initially filed in the Eleventh Judicial Circuit, Lexington County, South Carolina. The Plaintiff was the former Lieutenant Governor of the State of South Carolina and candidate for governor. As a result, the case received statewide attention from the press and public.

Although not assigned to preside in the Eleventh Judicial Circuit at the time the case was filed and pending, the action was assigned to me by Order of Chief Justice of the Supreme Court of South Carolina. The order vested me with exclusive jurisdiction to hear and dispose of the case, including all pre-trial motions and other matters pertaining thereto, regardless of where I might be assigned to hold court. Venue was transferred to Anderson County, and I proceeded to schedule a pre-trial status conference so as to address the pre-trial and procedural issues, implement a Scheduling Order and place the case in a posture for trial. Numerous motion hearings were held during the course of this litigation. Evidence included testimony from numerous witnesses, including experts in various fields. After two days of trial, the parties resumed settlement negotiations which resulted in an agreement

which was incorporated into a Final Decree. This file has been sealed by court order pursuant to Rule 41.1, SC Rules of Civil Procedure, and is not available for copying.

Timothy E. Madden, Attorney for Plaintiff
Poinsett Plaza, 9th Floor
104 South Main Street
Greenville, SC 29601
(864) 250-2279

J. Michael Taylor, Attorney for Plaintiff
2301 Devine Street
Columbia, SC 29205
(803) 376-2001

Jan L. Warner, Attorney for Defendant (deceased)
P.O. Box 2628
Columbia, SC 29202

James T. McLaren, Attorney for Defendant
1508 Laurel Street
Columbia, SC 29201
(803) 799-3074

J. Franklin McClain, Attorney for Defendant
401 South Main Street
Anderson, SC 29624
(864) 231-1137

Danyese Hobbs, Guardian *ad Litem*
2640 Gervais Street, Suite C
Columbia, SC 29204
(803) 771-2181

(5) *Gulledge v. Gulledge*, No. 2007-DR-04-814. This action involved the issues of divorce, child custody and visitation, equitable distribution of real and personal property, equitable distribution of debt, attorney fees and costs, Guardian *ad Litem* fees and civil contempt. The parties were the owners of a sizable marital estate which included retirement assets with the South Carolina Retirement System and South Carolina General Assembly Retirement System. The Plaintiff was a former member of the South Carolina Legislature and, at the time of trial, a current employee of the South Carolina Budget and Control Board. The action was initially filed in the Eleventh Judicial Circuit, Lexington County, South Carolina, in August, 2004. This was a hotly contested case which attracted some degree of public and press attention due to the allegations in the pleadings and the persons involved.

The Defendant filed a Motion to have the action assigned to a non-resident or retired judge outside of the Eleventh Judicial Circuit or, in the alternative, for a change of venue, which alleged that a fair trial could not be obtained due to alleged “political influence” of the Plaintiff. By Order of the Chief Justice of the South Carolina Supreme Court, dated March 23, 2007, the action was assigned to me and venue was transferred to Anderson County. Following a pre-trial status conference, several pre-trial hearings and motion hearings were held. The eight-day trial of the action took place in January and February 2008. Expert testimony was presented in the areas of psychology, finance and valuation of assets. Several post-trial motions were filed in this case which resulted in the issuance of several Orders. A copy of my Order issued as a result of the trial has been provided.

Jan L. Warner, attorney for Plaintiff (deceased)
P.O. Box 2628
Columbia, SC 29202

James T. McLaren, attorney for Plaintiff
1508 Laurel Street
Columbia, SC 29201
(803) 799-3074

John O. McDougall, attorney for Defendant
P.O. Box 90860
Columbia, SC 29290
(803) 776-3130

Peter G. Currence, attorney for Defendant
P.O. Box 90860
Columbia, SC 29290
(803) 776-3130

Gwyn DuBose-Schmitt, Guardian *ad Litem*
334 Old Chapin Road
Lexington, SC 29072
(803) 957-4994

(6) *Thrasher v. Price*, No. 2007-DR-04-2759. This was a contested custody action between the grandparents and parents of a three year old child. The claims of the parties required an analysis of constitutional issues surrounding the custody claims of the non-parents, the rights of the biological parents and the interests of the minor child. The Order granted custody of the child to the paternal grandfather and his wife.

Ivan James Toney, counsel for Plaintiffs
P.O. Box 10302
Greenville, SC 29603
(864) 298-0071

David J. Brousseau, counsel for Defendants R. Michael Price and Stephanie Price
P.O. Box 197
Anderson, SC 29621
(864) 225-0001

W. Norman Epps, III, counsel for Defendant Heather Hooper
P.O. Box 2167
Anderson, SC 29622
(864) 224-3536

Mary Jane Goodwin, Guardian *ad Litem*
113 North Main Street
Anderson, SC 29621
(864) 375-0909

(7) *Waetzig v. Waetzig*, No. 2008-DR-04-1822. This case involved the issue of whether or not the trial court should set aside a Qualified Domestic Relations Order entered into by written stipulation and consent upon a motion filed pursuant to Rule 60(b)(1) of the SC Rules of Civil Procedure on the grounds of mistake, inadvertence, surprise, or excusable neglect. Upon applying the provisions of Rule 43(K), SC Rules of Civil Procedure, and established precedent, I determined that the provisions of Rule 60(b)(1) did not apply and denied the Defendant's Motion to alter the previous Order.

Joy Davis, attorney for Plaintiff
412 Marshall Avenue
Anderson, SC 29621
(864) 231-8090

Druanne White, attorney for Plaintiff
412 Marshall Avenue
Anderson, SC 29621
(864) 231-8090

Sarah G. Drawdy, attorney for Defendant
2315 North Main Street, Suite 117
The Regency Building
Anderson, SC 29621
(864) 261-3977

(8) *In the Interest of B.C.*, No. 2008-JU-37-107. The Juvenile-Defendant was charged with offense of Armed Robbery. He was sixteen years of age at the time of the offense. The State moved to have the case transferred from the jurisdiction of the Family Court to the Circuit Court so as to have the Juvenile tried as an adult. A review of the factors set forth in *Kent v. United States*, 383 U.S. 541 (1966) was required in this case. After the receipt of testimony and a review of the psychological reports and other information presented, a determination was made to deny the State's motion and retain jurisdiction in Family Court.

Blair L. Stoudemire, attorney for Plaintiff
Tenth Circuit Solicitor's Office
415 South Pine Street
Walhalla, SC 29691
(864) 638-4294

W. Wilson Burr, attorney for Juvenile-Defendant
Oconee County Public Defender's Office
415 South Pine Street
Walhalla, SC 29691

(9) *Law Firm of Paul L. Erickson, P.A. v. Boykin*, 681 S.E.2d 575, 383 S.C. 497 (2009). I served as an Acting Associate Justice for the South Carolina Supreme Court in this case. An out of state judgment creditor filed a motion in the South Carolina Circuit Court to enforce a North Carolina default judgment. The judgment debtors filed a motion for relief from the judgment. The South Carolina Court of Appeals affirmed the ruling of the Circuit Court, which granted the debtors relief from the judgment. The Supreme Court reversed, thereby overruling prior precedent, and held that the section of South Carolina's Uniform Foreign Judgments Act, which placed the burden of proving a foreign judgment is entitled to full faith and credit upon the judgment creditor, violated Article IV, Section 1, of the United States Constitution.

Karl H. Smith, attorney for Petitioner
508 South Fourth Street
Hartsville, SC 29550
(843)332-4700

Paul L. Erickson, attorney for Petitioner
1998 Hendersonville Road
Building 1, Suite 3
Asheville, NC 28803

Carolyn R. Hills, attorney for Respondent
4701 Oleander Drive
Myrtle Beach, SC 29577-5762
(843) 626-2600

(10) *Butts v. South Carolina Dep't of Soc. Servs.*, No. 2009-DR-37-209. This case involved an appeal from a determination made by the South Carolina Department of Social Services to enter the name of the Plaintiff in the Central Registry of Abuse and Neglect. After an administrative hearing, the Hearing Officer upheld the determination by the Agency to enter the Plaintiff's name in the Central Registry. Pursuant to the South Carolina Administrative Procedures Act, the Plaintiff appealed the Order of the Administrative Hearing Officer to the Family Court. As the Appellate Court in this instance, I was required to determine if the substantial rights of the Appellant had been prejudiced and if the administrative findings, inferences, conclusions or decisions were (a) in violation of constitutional or statutory provisions; (b) in excess of the statutory authority of the agency; (c) made upon unlawful procedure; (d) affected by other error of law; (e) clearly erroneous in view of the reliable, probative and substantial evidence on the whole record; or (f) arbitrary or capricious or clearly unwarranted exercise of discretion. The Plaintiff also asserted that the findings by the Agency and Administrative Hearing Officer constituted cruel and unusual punishment in violation of the Eighth Amendment to the United States Constitution. After a final hearing, the determinations of the Agency and the Administrative Hearing Officer were upheld.

Bradley A. Norton, attorney for Plaintiff
P.O. Box 490
Walhalla, SC 29691
(864) 638-2930

Karen F. Ballenger, attorney for Plaintiff
P.O. Box 490
Walhalla, SC 29691
(864) 638-2930

Susan Anderson, attorney for Defendant
P.O. Box 1520
Columbia, SC 29202
(803) 898-7368

- 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.

(1) *Hartman v. Burdette, et al.*, No. 2000-DR-37-527. Copy provided.

Ronnie J. Treadwell, co-counsel for Plaintiff
510 East Calhoun Street
Anderson, SC 29621
(864) 224-9750

Floy Kenyon Anderson, co-counsel for Plaintiff
P.O. Box 1286
Anderson, SC 29622
(864) 224-2596

Raymond E. MacKay, counsel for Defendant
1301 Ella Street
Anderson, SC 29621
(864) 225-4495

Charles R. Hughes, Guardian *ad Litem*
P.O. Box 2003
Seneca, SC 29679
(864) 888-4807

(2) *Davis v. Davis*, No. 2000-DR-37-63. Copy provided.

R. Scott Dover, counsel for Plaintiff
P.O. Box 462
Pickens, SC 29671
(864) 878-0662

Julian L. Stoudemire, counsel for Defendant
P.O. Box 99
Seneca, SC 29679
(864) 882-1480

Karen G. Pruitt, Guardian *ad Litem*
201 Werner Street
Central, SC 29630
(864) 639-1800

3. *Anderson v. Tolley*, No. 2001-DR-37-146. Copy provided.

Pamela E. Deal, counsel for Plaintiff
P.O. Box 1764
Clemson, SC 29633
(864) 654-1699

Julian L. Stoudemire, counsel for Defendant
P.O. Box 99
Seneca, SC 29679
(864) 882-1480

(4) *Miller v. Miller*, No. 2002-DR-37-554. Copy provided.

Julian L. Stoudemire, counsel for Plaintiff
P.O. Box 99
Seneca, SC 29679
(864) 882-1480

J. Redmond Coyle, counsel for Defendant (deceased)
P.O. Box 898
Pickens, SC 29671
(864) 878-3514

(5) *Long v. Long*, No. 2002-DR-37-116. Copy provided.

R. Scott Sprouse, counsel for Plaintiff
P.O. Box 99
Seneca, SC 29679
(864) 882-1480

W.N. Epps, Jr., counsel for Defendant
P.O. Box 2167
Anderson, SC 29622
(864) 224-2111

Susan S. Reese, Guardian *ad Litem*
Seventh Circuit Solicitor's Office
180 Magnolia Street, Third Floor
Spartanburg, SC 29306
(864) 596-2575

(6) *Wendt v. Wendt*, No. 2002-DR-37-664. Copy provided.

N. Gruber Sires, Jr., counsel for Plaintiff
P.O. Box 1277
Seneca, SC 29679
(864) 882-1277

Stuart G. Anderson, Jr., counsel for Defendant
P.O. Box 1749
Greenville, SC 29602
(864) 233-4566

Amanda H. Craven, counsel for Defendant
P.O. Box 3547
Spartanburg, SC 29304
(864) 585-5100

Pamela E. Deal, counsel for Third-Party Defendant Sandra E. Wendt
P.O. Box 1764
Clemson, SC 29633
(864) 654-1699

(7) *Brunelle v. Brunelle*, No. 2003-DR-37-80. Copy provided.

Karen F. Ballenger, counsel for Plaintiff
P.O. Box 490
Walhalla, SC 29691
(864) 638-2930

Julian L. Stoudemire, counsel for Defendant
P.O. Box 99
Seneca, SC 29679
(864) 882-1480

(8) *Dept. of Social Services v. A.M.D. and R.G.D.*, No. 2003-DR-37-387. Copy provided.

K. Scott Toussaint, counsel for Plaintiff
P.O. Box 774
Seneca, SC 29679
(864) 888-1900

Stephanie Corley, counsel for Defendant A.D.
P.O. Box 98
Walhalla, SC 29691
(864) 718-0777

Emma W. Morris, counsel for Defendant R.G.D.
P.O. Box 795
Seneca, SC 29679
(864) 882-2747

James L. Williams, counsel for Defendant R.G.D.
P.O. Box 795
Seneca, SC 29679
(846) 882-2747

Blair L. Stoudemire, Guardian *ad Litem*
Tenth Circuit Solicitor's Office
415 South Pine Street
Walhalla, SC 29691
(864) 638-4294

(9) *Rowland v. Rowland*, No. 2003-DR-04-2601. Copy provided.

W.N. Epps, Jr., counsel for Plaintiff
P.O. Box 2167
Anderson, SC 29622
(864) 224-2111

William C. Hood, counsel for Defendant
505 North McDuffie Street
Anderson, SC 29621
(864) 375-0530

(10) *Parnell v. Parnell*, No. 2005-DR-46-775. Copy provided.

Joseph D. Matlock, counsel for Plaintiff
P.O. Box 11101
Rock Hill, SC 29731
(803) 985-3989

Thomas F. McDow, counsel for Defendant
P.O. Box 891
Rock Hill, SC 29731
(803) 327-4151

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

The case of *Price v. Turner*, 387 S.C. 142, 691 S.E.2d 470 (2010) was appealed to and affirmed by the South Carolina Supreme Court. A Petition for Certiorari was filed with the United States Supreme Court, and was granted on November 1, 2010. The caption in the appeal is *Michael D. Turner v. Rebecca L. Rogers, et al.*, Docket No. 10-10.

- 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.

(1) *Dep't of Social Services v. Wright*, No. 2000-DR-37-1198, *rev'd*, UPO No. 02-UP-665 (S.C. Ct. App. 2002). This was an action filed by the South Carolina Department of Social Services seeking custody of the Defendant's elderly wife, who suffered from numerous chronic illnesses. The trial court ruled that the wife would face a substantial risk of harm if returned to the care of her husband and granted the agency custody. The appellate court, using its authority to find facts in accordance with its own view of the evidence, reversed the decision of the trial

court without prejudice to the right of the Plaintiff to file a new action for custody. Copies of the opinions have been provided.

(2) *Crooks v. Crooks*, No. 2000-DR-37-406, *rev'd*, UPO No. 03-UP-447 (S.C. Ct. App. 2003). This action involved the issues of divorce, equitable distribution of marital property and debt and child custody. The appellate court affirmed the ruling of the trial court on the issues of allocation of credit card debt, set off for mortgage payments, valuation of a vehicle and home, use and possession of a vehicle and child custody. However, the court reversed the ruling of the trial court on the award of certain 401(K) retirement funds and calculation of wife's share of the marital home and remanded these issues for reallocation of the marital estate. Copies of the opinions have been provided.

(3) *Lautner v. Lautner*, No. 2000-DR-23-2014, *rev'd*, UPO No. 04-UP-103 (S.C. Ct. App. 2004). This action involved the issues of divorce, equitable distribution of property and debt. The court of appeals reversed that portion of the order of the trial court which included all passive increases to the husband's retirement account in the marital estate. The case was remanded to determine which passive increases should be allocated to the premarital portion of the retirement account. Copies of the opinions have been provided.

- 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.

Each hearing results in a written order. Hearings of limited scope are often addressed by form order. More extensive trials require detailed orders with numerous findings. In our court, written opinions are maintained by the Clerk of Court in each county. In general, those are available to the public; however, certain types of cases in Family Court are sealed.

- 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.

Law Firm of Paul Erickson, P.A. v. Boykin, 383 S.C. 497, 681 S.E.2d 575 (2009). As Acting Associate Justice by designation of the Chief Justice, I concurred in this opinion of the South Carolina Supreme Court in a case involving application of the Full Faith and Credit Clause of the United States Constitution.

- 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.

I have not sat by designation on a federal court of appeals.

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.

The South Carolina Judiciary does not utilize an automatic recusal system. Decisions concerning recusal are made on a case-by-case basis taking into consideration the facts and circumstances and applicable rules. Judges utilize the South Carolina Code of Judicial Conduct contained in the South Carolina Appellate Court Rules, the Canons of Judicial Ethics, and opinions issued by the South Carolina Advisory Committee on Standards of Judicial Conduct in making such decisions.

My practice is such that if I become aware of a conflict of interest by reason of a close or personal relationship with a person involved in an action, or determine that the circumstances give rise to an appearance of impropriety or that my impartiality might reasonably be questioned, I recuse myself from the case. I do not maintain a recusal log. However, I have identified the following cases I have recused myself from hearing:

Miller v. Miller, No. 2003-DR-37-572. I recused myself *sua sponte* because I had represented the brother of one of the parties.

Land v. Land, No. 2005-DR-37-231. I recused myself *sua sponte* because I had represented one of the parties.

Harden v. Harden, No. 2005-DR-37-737. I recused myself *sua sponte* because I had used the services of a business operated by one of the parties.

Haney v. Haney, No. 2006-DR-37-450. At a temporary hearing, upon reading the affidavit of one of the parties submitted to the court, I asked counsel to make an

inquiry as to whether the party desired that I recuse myself. When I received a response in the affirmative, I granted the request and recused myself from the case.

Mann v. Mann, No. 2006-DR-37-500. I recused myself *sua sponte* upon learning that the father-in-law of the courtroom security officer normally assigned to me was a potential witness in the case, and that the officer was a neighbor of one of the parties.

Woodall v. Woodall, No. 2007-DR-37-162. I recused myself *sua sponte* from the equitable distribution trial in this case upon learning that there was a dispute involving the proposed sale of property to a former client.

Siconofli v. Klein, No. 2007-DR-37-273. I recused myself *sua sponte* because I had previously represented one of the parties.

Moore v. Moore, No. 2008-DR-37-526. I recused myself *sua sponte* because I am related to one of the parties.

Skelton v. Carithers, No. 2008-DR-04-2543. I recused myself *sua sponte* because the Acting Clerk of Court was related to one of the parties and a potential witness in the case. All judges in my circuit recused themselves from this case, which was heard by a judge outside of our circuit.

Tippett v. Tippett, No. 2009-DR-37-352. I recused myself *sua sponte* due to a church affiliation with the parties.

Cain v. Cain, No. 2010-DR-37-17. I recused myself *sua sponte* because of a possible familial relationship with one of the parties.

Pearson v. Pearson, No. 2010-DR-37-503. I recused myself *sua sponte* from the trial of this case because one of the parties is employed with a city recreation department where I formerly coached for several years.

Orr v. Orr, No. 2010-DR-37-655. I recused myself *sua sponte* because I previously represented the parent of one of the parties.

In the event I become aware of a potential conflict of interest or possible appearance of impropriety, I disclose the same to the parties and counsel on the record. I then remove myself from the courtroom and return after they have had a sufficient opportunity to confer and consider the matter and make decisions as to my continued involvement in the case. Upon returning to the courtroom, I inquire of counsel as to their positions and allow them to make any appropriate motions. If the attorneys indicate that the parties desire that I hear the matter, I confirm this with the parties on the record.

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.

1992 – 2000: County Attorney for Oconee County, appointed by Norman D. Crain, the County Supervisor, reappointed by his successor Harrison E. Orr.

I have never had an unsuccessful candidacy 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.

I have never held an office in a political party or been a member of an election committee.

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 have never served as a clerk for a judge.

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

In 1993, I formed the professional association of Timothy M. Cain, P.A. From 1993 through 1996, I practiced under the firm name of Fedder & Cain, with Mr. Fedder acting as “of counsel” during a portion of this time.

- 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.

1985 – 1986
Fifth Circuit Solicitor
1710 Main Street
Columbia, SC 29201
Law Clerk

1987
Oconee Defender Corporation
N. Gruber Sires, Jr., Public Defender
P.O. Box 1277
Seneca, SC 29679
(864) 882-1277
Assistant Public Defender

1986 – 1988
Miley & Macaulay (firm became known as Miley, Macaulay & Cain during
this time)
P.O. Drawer 428
Walhalla, SC 29691
Associate

1988 – 1990
Solicitor's Office, Tenth Judicial Circuit
Oconee County Courthouse
211 West Main Street
Walhalla, SC 29691
Assistant Solicitor

1990 – 1991
Brandt & Fedder
339 ByPass 123
P.O. Box 698
Seneca, SC 29679
Associate

1991 – 1993
Brandt, Fedder, Graham & Cain
339 ByPass 123
P.O. Box 698
Seneca, SC 29679
Partner

1993 – 1996
Fedder & Cain
339 ByPass 123
P.O. Box 698
Seneca, SC 29679
Partner

1996 – 1998
Ballenger, Fedder, Cain and Norton, L.L.P.
339 ByPass 123
P.O. Box 698
Seneca, SC 29679
Partner

1992 – 2000
Oconee County
415 South Pine Street
Walhalla, South Carolina 29691
County Attorney

1998 – 2000
Fedder, Cain and Norton, L.L.P.
339 ByPass 123
P.O. Box 698
Seneca, SC 29679
Partner

1993 – 2000
Timothy M. Cain, P.A.
339 ByPass 123
P.O. Box 698
Seneca, SC 29679
Owner (professional association established for purpose of representing my interest in the LLPs with which I practiced during this period; the association ceased activity in 2000 and was formally dissolved in 2003)

- 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 recall being designated as an Arbitrator on a three member arbitration panel in two automobile accident cases in approximately the mid-1990s. However, I did not maintain a file on these matters and have been unable, through a search of the public records, to locate the files. My recollection is that the other members of the Arbitration Panel were Larry C. Brandt,

P.O. Box 638, Walhalla, SC 29691 (864) 638-5406, and The Honorable Merl F. Code, P.O. Box 2757, Greenville, SC 29602 (864) 271-1300.

b. Describe:

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

During my first two years of practice, I engaged primarily in civil litigation involving personal injury, workers compensation and social security disability, as well as criminal defense and family law. I also had a general office practice that included assisting clients in such matters as real estate transactions, wills, partnerships and corporations. I became a part time Assistant Public Defender and represented clients in Family Court and Circuit Court charged with felonies and misdemeanors. In January 1988, I accepted a position as a part time prosecutor while maintaining my private practice and became a full time prosecutor in June 1988. I represented the State of South Carolina in prosecuting child abuse and neglect cases in Family Court and Circuit Court and prosecuted criminal cases of various types involving felonies and misdemeanors in Oconee and Anderson Counties, as well as civil forfeiture proceedings.

In 1990, I joined the firm of Brandt and Fedder, which later became Brandt, Fedder, Graham and Cain. My primary areas of practice included litigation in the areas of personal injury, medical malpractice, family law, social security disability and criminal defense. I also maintained a general office practice and assisted in representing several local government and municipal clients. In 1992, when the senior partner in the firm decided to limit his practice, I began to devote more attention to the areas of estate planning, probate law and litigation, and business formations – including corporations, partnerships and limited liability companies – in order to maintain this client base. I also took on most of the workers compensation work of the firm.

In 1992, I was appointed as County Attorney for Oconee County and served in this capacity as a part of my private law practice until my election to the bench. During this period of time, Oconee County experienced economic development and industrial growth which increased demand on local government services and infrastructure. In addition, federal and state agencies focused attention on local government compliance with regulations in the areas of solid waste management, sewer and aeronautics. I represented the county sewer utility system, solid waste department, airport commission, several municipalities and a local water utility. Accordingly, I was required to become more familiar with the areas of environmental, employment, governmental and utility law and

regulation, as well as public finance, including fee-in-lieu of tax arrangements and bond issues.

From 1992 until April 2000, I continued to maintain a general office practice and engaged in civil and criminal litigation as described above but devoted more time to government and municipal law. I have handled both jury and non-jury trials primarily in state court involving personal injury, property damage, medical malpractice, premises liability, contract disputes, boundary line disputes, right-of-ways and easements, mortgage foreclosures and matters in Probate Court involving actions for the appointment of conservators and guardians and disputes concerning the validity of testamentary documents and the administration of estates. I also represented clients before administrative judges and boards in workers compensation, social security disability and zoning matters.

With respect to civil litigation, I primarily represented plaintiffs but also represented some individual and corporate defendants, as well as government defendants. I have represented both the government and landowners in eminent domain proceedings.

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

I maintained a general practice, primarily in state court. My clients included individuals, both working people and retirees, as well as small businesses and several lending institutions. I also represented several municipalities, two public utilities and Oconee County, and its various commissions and boards.

As my practice developed over time, I had the opportunity to represent people from all walks of life in a variety of legal matters. I did not specialize in any particular area of law.

- 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.

During the period of 1987 to 1990, while working as an Assistant Public Defender and later as an Assistant Solicitor (Prosecutor), my court appearances were frequent.

Beginning in 1990, I began to appear more frequently in the Court of Common Pleas (Circuit Court – Civil) in civil matters, as well as before administrative agencies such as the South Carolina Workers' Compensation Commission, but continued to represent clients in Family Court, the Court of General Sessions,

Magistrate's Court and Municipal Courts. I also represented clients before the Social Security Administration and have appeared before zoning appeals boards.

After being appointed County Attorney, I necessarily devoted more of my time to government, municipal and administrative matters. As a result of the increased emphasis on government and administrative issues, my appearances in court became less frequent.

i. Indicate the percentage of your practice in:

- | | |
|-----------------------------|-----|
| 1. federal courts: | 5% |
| 2. state courts of record: | 60% |
| 3. other courts: | 10% |
| 4. administrative agencies: | 25% |

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 prosecutor, I handled most of my cases as sole counsel or primary counsel, but also worked on some cases as co-counsel. As an associate, I participated in most trials in Circuit Court as associate counsel, but appeared in Family Court most often as sole counsel. Upon becoming a partner and forming my own firm, I handled most cases as sole counsel or primary counsel. I would estimate that I have participated in approximately fifty trials.

i. What percentage of these trials were:

- | | |
|--------------|-----|
| 1. jury: | 40% |
| 2. non-jury: | 60% |

- 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 not 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.

(1) *State v. Altizer*, No. 87-GS-37-551, Judgment Roll No. 12,423 (Court of General Sessions, Tenth Judicial Circuit, Oconee County); 1987; The Honorable William H. Ballenger (deceased).

I was associate counsel for the Defendant who had been charged with murder. Representation included interviewing lay and expert witnesses, inspection of the scene where the incident took place, legal research and preparation of proposed jury instructions for the trial judge and representation at trial. The Defendant asserted the defense of self-defense. After a four day jury trial, the Defendant was found not guilty.

Alexander S. Macaulay, co-counsel
(Subsequently elected Judge, Circuit Court, Tenth Judicial Circuit)
P.O. Drawer 428
Walhalla, SC 29691
(864) 638-4266

George M. Ducworth, opposing counsel
c/o Anderson University
P.O. Box 1061
Anderson, SC 29621
(864) 231-5738
(former Solicitor, Tenth Judicial Circuit)

Tommy B. Edwards, opposing counsel
(subsequently elected Judge, Family Court, Tenth Judicial Circuit)
P.O. Box 8002
Anderson, SC 29622
(864) 260-4040

(2) *Bowen v. Bowen*, No. 88-DR-37-76 (Family Court, Tenth Judicial Circuit, Oconee County); 1988; The Honorable J. Franklin McClain, retired.

I represented the husband at the temporary and final hearings in this divorce action initiated by the wife after nineteen years of marriage. The wife sought a divorce on the ground of physical cruelty. My client counterclaimed on the ground of adultery. The

issues before the Court included the grounds for divorce, property division, division of debts, child custody and support and alimony. The assets deemed marital property included the marital home, securities and retirement funds. Testimony included that of a private investigator hired by the husband. While child custody was settled at trial, all other issues were litigated. At the conclusion of the trial, the Court denied the Wife's prayer for a divorce on the ground of physical cruelty and awarded the husband a divorce on the ground of adultery. My client received a favorable division of marital assets.

Michael J. Smith, opposing counsel
P.O. Box 1247
Seneca, SC 29679
(864) 882-4600

(3) *Oconee County Dep't of Social Services v. D.R. (Father) and M.L.R (Mother)*, No. 89-DR-37-317 (The Family Court, Tenth Judicial Circuit, Oconee County); The Honorable Robert H. Cureton, retired.

As Assistant Solicitor, I represented the Oconee County Department of Social Services (DSS) in this abuse and neglect action brought after two children were taken into protective custody by law enforcement officers. The report which resulted in the investigation included allegations that the children, ages 13 and 17, had been subjected to verbal abuse, intimidation and threats by their father, who had threatened to kill himself, the family and law enforcement officials. There was no evidence of physical abuse, and the mother would not corroborate the information given by the children. It was determined to prosecute the case on the basis of mental injury and threat of harm to the children. This was a contested case, and both parents were represented by separate legal counsel. I represented DSS throughout the proceedings, including the temporary hearing and merits hearing. The trial took place over a period of several days and involved testimony from both lay and expert witnesses, as to the effect of the actions of the parents on the mental state of the children. The Family Court made a finding of mental injury and continued threat of harm to the children and awarded custody to DSS. To my knowledge, this was the first abuse and neglect case in Oconee County which went to trial on the basis of an alleged mental injury without allegations or evidence of actual physical abuse.

Robert K. Whitney, opposing counsel
P.O. Box 14
Seneca, SC 29679
(864) 882-1414

Michael L. Haddock, opposing counsel
(Unable to obtain contact information for Mr. Haddock.)

R. Daniel Day, attorney for the minor children
Tenth Judicial Circuit Public Defender Office
415 South Pine Street
Walhalla, SC 29691
(864) 638-3132

(4) *State v. Adams*, Nos. 89-GS-04-2220 and 89-GS-04-1104 (Court of General Sessions, Anderson County); 1989; The Honorable William B. Traxler, Jr. Judge Traxler is now the Chief Judge of the United States Court of Appeals for the Fourth Circuit.

I prosecuted this case for the State of South Carolina. The Defendant was indicted on two charges, Causing Great Bodily Injury By Operating A Vehicle While Under The Influence Of Drugs Or Alcohol (Felony DUI - Great Bodily Injury), and Causing Death by Operating A Vehicle While Under The Influence Of Drugs Or Alcohol (Felony DUI - Death). The indictments alleged that the Defendant was driving a Ford Station Wagon while under the influence of alcohol in Anderson County, South Carolina, when he lost control of and wrecked his vehicle, causing the death of one person and serious bodily injury to another. The Defendant asserted that he was not driving the vehicle at the time of the collision. The case was tried before a jury over a period of two days. The State was required to establish a chain of custody of bodily fluid samples taken by medical personnel and present testimony from the investigating police officer, medical personnel and other witnesses. The Defendant was convicted on both charges and sentenced to a term of imprisonment of five years on one indictment, and ten years on the other. These convictions were affirmed on appeal to the Supreme Court of South Carolina as reflected in Memorandum Opinion 91-MO-55 filed February 11, 1991.

Robert A. Gamble, opposing counsel
Anderson County Public Defender's Office
301 Camson Road
Anderson, SC 29625
(864) 260-4048

(5) *State v. Murphy*, No. 89-DR-37-161 (Court of General Sessions, Tenth Judicial Circuit, Oconee County); 1989; the Honorable William H. Ballenger, Circuit Court Judge (deceased).

I prosecuted this case for the State of South Carolina on August 1 and 2, 1989. The Defendant was indicted on the charge of Assault And Battery With Intent To Kill. The State alleged that on December 24, 1988, the Defendant, with malice aforethought, committed the offense of assault and battery with intent to kill upon the victim by shooting him. The Defendant asserted the defense of self defense. The case was tried before a jury over a period of two days and resulted in a verdict of guilty. The Defendant was sentenced to a term of imprisonment of twenty years, suspended upon the service of nine years in addition to five years probation and restitution.

W. Jeffry Weston, opposing counsel
Thirteenth Circuit Solicitor's Office
305 East North Street, Suite 400
Greenville, SC 29601
(864) 467-8647

(6) *State v. Connally*, No. 89-GS-37-1 (Court of General Sessions, Tenth Judicial Circuit, Oconee County); 1989; The Honorable E.C. Burnette, Circuit Court Judge, retired. Prior to his retirement, Judge Burnette was elected as an Associate Justice of the South Carolina Supreme Court.

I represented the State of South Carolina in this criminal prosecution for the offense of Pointing Or Presenting A Firearm. The Defendant had significant criminal history which included violent crimes such as kidnapping and drug offenses and was on probation at the time of the offense. The Tenth Circuit Solicitor concluded that the Defendant, who had been released on bond, represented a threat to public safety and the community. The case was assigned to me for prosecution, and the Defendant was convicted after a jury trial.

George M. Ducworth, co-counsel
c/o Anderson University
P.O. Box 1061
Anderson, SC 29621
(864) 231-5738
(former Solicitor, Tenth Judicial Circuit)

Bruce Byrholdt, opposing counsel
P.O. Box 2506
Anderson, SC 29622
(864) 225-1411

(7) *Conyers v. Oconee Omni Corporation Corp., et al.*, No. 90-CP-37-413, Judgment Roll No. 30,409 (Court of Common Pleas, Tenth Judicial Circuit, Oconee County); 1990-1993; The Honorable Tom J. Ervin, Circuit Court Judge (retired).

My firm represented the Plaintiff in this medical malpractice action. The Plaintiff was involved in an automobile accident and was treated by the Defendant Physician at Oconee Memorial Hospital. The allegations included that the attending physician had improperly and prematurely removed a cervical collar and immobilization restraints placed on the Plaintiff at the scene by emergency medical personnel, and that this incident was indicative of a pattern of similar conduct towards patients treated in the emergency room by this physician. The Plaintiff was rendered a quadriplegic as a result of his injuries. This lawsuit involved extensive discovery and depositions over a period of approximately two and one-half years, as well as the preparation and use of expert witnesses, including emergency physicians, neurosurgeons, economists, and life care planners. The Corporate Defendants and Officers were granted summary judgment.

The trial, which lasted two weeks, resulted in a verdict for the Plaintiff against the Defendant Physician in the amount of five million dollars. It is my understanding that at the time, this verdict represented the largest jury award ever rendered in Oconee County. The Defendant filed an appeal. However, a favorable settlement was reached while the case was on appeal.

Larry C. Brandt, co-counsel
P.O. Box 738
Walhalla, SC 29691
(864) 638-5406

W. Jerry Fedder, co-counsel
10 Running Deer Court
Greer, SC 29650
(864) 848-1201

Lindsey O. Graham, co-counsel
(Mr. Graham was subsequently elected to Congress)
290 Russell Senate Office Building
Washington, D.C. 20510
(202) 224-5972

Alexander S. Macaulay, opposing counsel
(subsequently elected as Circuit Court Judge, Tenth Judicial Circuit)
P.O. Drawer 428
Walhalla, SC 29691
(864) 638-4266

William M. Hagood, III, opposing counsel
P.O. Box 10045
Greenville, SC 29603
(864) 242-6360

Cary C. Doyle, opposing counsel
P.O. Box 2125
Anderson, SC 29622
(864) 224-7111

G. Dewey Oxner, Jr., opposing counsel
P.O. Box 2048
Greenville, SC 29602
(864) 240-3208

(8) *Standridge. v. Thrift, et al.*, No. 1992-ES-37-00-120 (Probate Court of Oconee County), 1994; The Honorable Sandra Burgess Orr, Probate Judge.

I represented the Estate of Mae Thrift Standridge. The decedent had insufficient funds to pay substantial medical expenses and debts incurred prior to her death. The Personal Representative engaged me to bring an action for the sale of certain property to satisfy these debts. In addition to assuring compliance with the necessary notice and accounting requirements for administration of the estate, I assisted the Personal Representative in securing professional services to obtain a plat of survey of the subject property, real estate appraisals and for the preparation and filing of fiduciary tax returns. It was necessary to examine the title to the tracts of real estate owned by the decedent at the time of her death and to determine the decedent's heirs at law and the interests of such persons in the estate.

During the course of the litigation, one of the heirs filed a Disclaimer in an attempt to renounce his interest in the estate in favor of his minor children. Examination of the public records of Oconee County suggested that this purported Disclaimer was filed to avoid the attachment of a judgment lien to the interest of this heir. A review of the applicable provisions of state law and the Internal Revenue Code raised concerns as to the timing of the filing of the purported Disclaimer. In order to protect the Estate, I sought a judicial determination of the effect and validity of the purported Disclaimer. Because the Disclaimer would have benefited the subject heir's minor children, I petitioned the court for the appointment of a Guardian *ad Litem* for these children.

After hearing the matter, the Probate Court determined that the Disclaimer was invalid and ineffective as it was not filed in compliance with state and federal law. The court also entered an order approving the sale of timber as requested by the Personal Representative and application of the proceeds to payment of debts of the Estate. As a part of this process, I also prepared a Memorandum of Agreement For Harvesting And Sale Of Timber which was approved by the court.

John J. McDonough, III, opposing counsel

According to information obtained from the South Carolina Bar Association, Mr. McDonough is no longer licensed to practice law in South Carolina pursuant to Order of the Supreme Court of South Carolina dated August 12, 1996.

Timothy C. Merrell, Guardian *ad Litem*
119-B Professional Park Drive
Seneca, SC 29678
(864) 882-2466

(9) *Oconee County v. Richardson, et al.*, No. 96-CP-37-324; Judgment Roll No. 34,053 (Court of Common Pleas, Tenth Judicial Circuit, Oconee County); 1996-1998; The Honorable Alexander S. Macaulay, Circuit Court Judge.

I represented Oconee County, South Carolina, in this condemnation action filed pursuant to the South Carolina Eminent Domain Procedure Act. Oconee County, as a political subdivision of the State of South Carolina, was vested by law with the power of eminent domain. The County sought the acquisition of a tract of real estate and easement appurtenant thereto for the expansion of the Clemson-Oconee Airport. The County had obtained a federal grant for the project through the Federal Aviation Administration. Acquisition of the property was required for the project to proceed. As counsel for Oconee County, I was required to examine the title to the subject property to determine the ownership interests therein and include as named parties all persons having a possible claim or interest.

Discovery was required which included filing the appropriate pre-trial motions to compel discovery and for a judicial determination as to the interests of the parties in the subject real property. The Condemnees filed a motion for a non-jury trial which was granted by consent. The matter was tried before the court on August 26, 1998 which resulted in an award of just compensation in the amount offered by the County. Two of the Condemnees filed an appeal to the Supreme Court of South Carolina which was dismissed by Order dated October 13, 1998.

James S. Erwin, III, opposing counsel
806 Powdersville Road, Suite E
Easley, SC 29642
(864) 855-4595

(10) *Turner, et al. v. Oconee County, et al.*, No. 1998-CP-37-77; Judgment Roll No. 36,150 (Court of Common Pleas, Tenth Judicial Circuit, Oconee County); 1998-2000; The Honorable Ellis B. Drew, Jr., Master-in-Equity.

I represented the County of Oconee in this action. The Plaintiff sought to have the Court make a judicial determination to require Oconee County to accept and maintain a road located within the Bayshore Estates Subdivision leading to Lake Hartwell. Defendants Sylvester filed counterclaims against the Plaintiff. The issue before the Court affecting my client was whether the subject road was dedicated as a public road or accepted as such by Oconee County. An unfavorable ruling to my client could have affected other situations and exposed the County to additional liability and expense. I moved for and obtained an Order for Summary Judgment as to Defendant, Oconee County. The Order granting Summary Judgment in favor of my client was affirmed by the South Carolina Court of Appeals after I closed my law practice upon election to the Family Court Bench.

R. Scott Sprouse, opposing counsel
P.O. Box 99
Seneca, SC 29679
(864) 882-1480

Phillip E. Reeves, opposing counsel
P.O. Box 15089
Greenville, SC 29603
(864) 271-9580

Perry H. Gravely, counsel for Defendants Prescott and Sylvester
P.O. Box 219
Pickens, SC 29671
(864) 878-1577

Bradley A. Norton, counsel for Bayshore Association, Inc.
P.O. Box 490
Walhalla, SC 29691
(864) 683-2930

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.)

As a prosecutor and criminal defense attorney, I have prosecuted and defended many actions involving crimes against persons and property which did not go to trial. I represented clients in three medical malpractice cases filed in state court which resulted in settlements prior to trial. One of these cases involved wrongful death and survival actions. I also handled a medical malpractice action against United States Army under the Federal Tort Claim Act which resulted in a substantial settlement.

I was a principal attorney involved in a premises liability case which left a young child with permanent brain damage filed in state court but removed to federal court. A favorable confidential settlement was reached shortly before trial. My practice in civil court included several cases involving serious personal injury which sometimes included companion claims for workers compensation and social security disability benefits.

My work in family court included the representation of clients of modest means and clients with substantial marital estates. I have handled numerous actions involving the termination of parental rights as well as adoptions.

As counsel for the Oconee County Sewer Commission, holder of a National Pollution Discharge Elimination System Permit, I represented the agency in enforcement actions against industrial sewer users for violations of local sewer permit discharge limits. I also represented the agency in enforcement actions brought by the South Carolina Department of Health and Environmental Control (SCDHEC) as enforcement entity for the U.S. Environmental Protection Agency and assisted in updating, developing and implementing a more current sewer use ordinance for Oconee County. In addition, I assisted the Sewer Commission in the preparation of filings and submissions with state and federal agencies, including SCDHEC, and the Federal Energy Regulatory Commission involving a variety of matters.

As County Attorney, I worked with the County Planning Commission in the development and adoption of the first Land Use Plan Ordinance in Oconee County, and a Municipal Solid Waste Management Plan as required by state and federal law. As counsel to local government entities in such matters, I was required to draft and review ordinances, consent orders, intergovernmental agreements and provide representation at numerous public hearings and enforcement conferences. I represented the county in the negotiation and preparation of engineering and construction contracts for a multi-million dollar upgrade to the sewer treatment facility and with legal issues pertaining to obtaining financing for the project.

As counsel to the Oconee County Aeronautics Commission, I represented Oconee County in litigation involving the public airport, as well as compliance with regulations and grant requirements issued by the Federal Aviation Administration and S.C. Aeronautics Commission. I also assisted in the development of a land use compatibility ordinance to protect the operation of the public airport.

I also represented the County Election Commission in matters pertaining to public elections and submission of ballot questions to the United States Department of Justice for pre-clearance as required by federal law, and have represented four municipalities in various issues involving litigation, contractual, employment and other matters.

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.

I have not taught any courses.

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.

As I have been a full time state court judge for over 10 years, I am divested from any law firms with which I was formerly associated. I have no deferred income arrangements other than my retirement accounts.

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 do not have any plans or commitments to pursue outside employment.

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 attached Financial Disclosure Statement.

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

See attached 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 to 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 am not aware of any potential 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.

I would refer the Code of Judicial Conduct and Canons of Judicial Ethics to address any potential conflicts of interest. I would recuse myself *sua sponte* in any matter which presented an appearance of impropriety or where my impartiality might reasonably be questioned.

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.

During my time as a practicing attorney, I assisted many disadvantaged clients, including those unable to speak English, on a *pro bono* basis and at reduced fees. I have also served as Guardian *ad Litem* for children in abuse and neglect actions without fee. Additionally, I have served as advisor and coach to a local high school mock trial team.

During the first Gulf War, I assisted in preparing Last Wills and Testaments for service members called up for active duty. While in private practice, at the request of the South Carolina Department of Social Services, I agreed to be appointed as Conservator, under supervision of the Probate Court, for a vulnerable adult who was unable to provide for her own care and had no family in a position to assist her.

I have also served in various capacities with several community groups including committees and boards of organizations such as United Way and a regional not for profit blood program providing needed blood supplies to hospitals in South Carolina and Georgia. I also served on the Board of Directors of the Oconee Defender Corporation which, prior to the implementation of the statewide Indigent Defense System, was responsible for providing services to indigent defendants in criminal cases in Oconee County. I have also been actively involved in community outreach programs through my church designed to assist disadvantaged persons and have volunteered countless hours as a coach for the local recreation department.

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.

There is no selection commission in my jurisdiction to recommend candidates for nomination to the federal courts.

I have had several conversations with Senator Lindsey O. Graham concerning potential judicial openings in the United States District Court for the District of South Carolina. In May 2009, Senator Graham suggested that I contact the Offices of Congressman John M. Spratt, Jr. and Congressman James E. Clyburn. I subsequently spoke with and provided information to representatives of both Congressmen. I met with Congressman Spratt in May 2009. In June 2009, I received a joint letter from Congressman Spratt and Congressman Clyburn which indicated that my name had been submitted to the White House Counsel for consideration for appointment as a United States District Judge. I thereafter wrote both Congressmen and thanked them for their consideration and assistance.

I was contacted by a member of Senator Graham's staff on October 18, 2010. Since October 19, 2010, I have been in contact with pre-nomination officials at the U.S. Department of Justice. I interviewed with attorneys from the White House Counsel's Office and the Department of Justice in Washington, D.C., on December 2, 2010. The President submitted my nomination to the Senate on February 16, 2011.

- 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

AFFIDAVIT

I, TIMOTHY M. CAIN, do swear that the information provided in this statement is, to the best of my knowledge, true and accurate.

FEBRUARY 15, 2011

(DATE)

Timothy M. Cain

(NAME)

Jellie Smith

(NOTARY)

for South
Carolina

Commission Expires
April 8, 2019