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October 29, 2014

VIA EMAIL

The Honorable Thomas K. Norment, Jr. (tknorment@kaufcan.com)
Chair, Senate Courts of Justice Committee
P.O. Box 6205
Williamsburg, VA 23188

The Honorable David B. Albo (davealbo@aol.com)
Chair, House Courts of Justice Committee
6367 Rolling Mill Place, Suite 102
Springfield, VA 22152

Dear Senator Norment and Delegate Albo:

The Virginia State Bar appreciates the opportunity for its Judicial Candidate Evaluation Committee to review the qualifications of persons interested in the vacancies on the Supreme Court of Virginia and the Court of Appeals of Virginia created by the retirements of Chief Justice Cynthia D. Kinser, Chief Judge Walter S. Felton and Judge Robert P. Frank and to provide you with evaluations of those candidates.

Following notice of the vacancy in the Virginia Lawyers Weekly and the collection of extensive background information, the Judicial Candidate Evaluation Committee conducted interviews with 25 individuals on October 21, 2014. The committee's report and recommendations were reviewed by the bar's Executive Committee.

Under the bar's policy, most recently revised in June 2012, the Judicial Candidate Evaluation Committee is charged with evaluating the qualifications of each candidate and rating those found to possess the requisite experience, temperament, integrity and ability as either qualified or highly qualified. Each person's rating is also accompanied by an executive summary, prepared by the Committee, which explains the basis for the rating.

The Judicial Candidate Evaluation Committee consists of well-respected members of the practicing bar in the Commonwealth of Virginia. The following JCEC members participated on October 21st:

Joseph A. Condo, Chair	McLean
*David W. Bouchard	Chesapeake
Henry S. Keuling-Stout	Big Stone Gap
*Anthony H. Monioudis	Danville
Jennifer L. Parrish	Fredericksburg
*Nancy G. Parr	Chesapeake
Todd G. Patrick	Waynesboro
Michael A. Robusto	Virginia Beach
Marshall H. Ross	Richmond
Jason S. Rucker	Falls Church
William L. Schmidt	Fairfax
Kristine L.H. Smith	Lynchburg
Kristina P. Stoney	Richmond
Hunt H. Whitehead	Richmond
David J. Whitted	Chesapeake
* ¹ Michael M. York	Reston

Irving M. Blank serves on the committee as a nonvoting member representing the Executive Committee. Karen A. Gould attended as Executive Director of the VSB. Committee member Thomas T. Cullen of Roanoke was unable to attend.

The evaluation process undertaken by the JCEC is time consuming and complex. The JCEC members conduct an investigation of each candidate in advance of the meeting by interviewing lawyers and judges familiar with that individual. The JCEC then receives the reports of each investigation before interviewing each candidate. After each candidate is interviewed, a vote is taken as to whether the candidate is “Qualified,” taking into consideration the factors outlined in the JCEC policy, i.e., integrity, professional competence, experience, temperament, civic activities and public service. A majority of the JCEC members voting is required for a candidate to be designated as “Qualified.”

A majority of those voting in a second vote is required for a candidate to be designated as “Highly Qualified.” The “Highly Qualified” designation is an evaluation of “whether any of the candidates deemed qualified possesses a level of qualification and distinction sufficiently greater than the others to merit the designation of ‘Highly Qualified.’” In other words, the candidates are measured against each other, not in isolation. Only those who distinguish themselves from the others receive the highest rating. This second vote is conducted after all the candidates have been interviewed.

If a candidate is found not to be qualified for whatever reason, no report is prepared regarding that candidate.

Each candidate was asked the following questions at the start of the interview:

¹ Because of the large number of candidates, former JCEC members designated by an * in this list were recruited to assist in the background investigation, interview and deliberation process. These persons serve by virtue of a special appointment by the VSB president.

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Have you ever had a civil judgment entered against you, been subject to a tax or other lien by a government or administrative agency, been sanctioned by a government, administrative, or regulatory agency or been subject to a collection action for failure to satisfy such judgment, lien, or other sanction?

Each candidate who was evaluated as qualified or highly qualified answered in the negative to these questions.

The nine candidates evaluated for the Supreme Court of Virginia vacancy were:

Thomas W. Aldous, Jr.
W. Coleman Allen, Jr.
The Honorable Rossie D. Alston
The Honorable Randolph A. Beales
L. Steven Emmert
The Honorable Mary Jane Hall
The Honorable D. Arthur Kelsey
Christy A. McCormick
The Honorable Stephen R. McCullough

The twenty candidates evaluated for the vacancies on the Virginia Court of Appeals were:

Thomas W. Aldous, Jr.
The Honorable Chadwick S. Dotson
J. Jasen Eige
L. Steven Emmert
The Honorable Richard E. Gardiner
The Honorable Mary Jane Hall
The Honorable Gary A. Hicks
The Honorable Christopher W. Hutton
The Honorable Colleen K. Killilea
Maureen R. Matsen
Christy A. McCormick
The Honorable Stacey W. Moreau
Patricia P. Nagel
The Honorable Lorraine Nordlund
The Honorable Mary Grace O'Brien
Wesley G. Russell, Jr.
Elwood E. Sander, Jr.
The Honorable Josiah T. Showalter
The Honorable Robert J. Smith
Virginia B. Theisen

After reviewing the submissions of the candidates, receiving summaries of the background investigations and interviewing the candidates, the committee made the following evaluations of the candidates for the Supreme Court of Virginia, listed in alphabetical order, with the vote regarding each individual recorded in the column as indicated:

Supreme Court of Virginia	Qualified	Highly Qualified
W. Coleman Allen, Jr.	16-0	
The Honorable Rossie D. Alston	16-0	
The Honorable Randolph A. Beales	15-1	
L. Steven Emmert	16-0	14-2
The Honorable D. Arthur Kelsey	16-0	14-2
The Honorable Stephen R. McCullough	11-5	

With regard to the evaluations of the candidates for the Court of Appeals of Virginia, the committee made the following evaluations, with the candidates listed in alphabetical order, with the vote regarding each individual recorded in the column as indicated:

Court of Appeals of Virginia	Qualified	Highly Qualified
The Honorable Chadwick S. Dotson	12-4	
L. Steven Emmert	15-0 (1 abstention)	12-3 (1 abstention)
The Honorable Mary Jane Hall	9-7	
The Honorable Gary A. Hicks	16-0	14-2
The Honorable Christopher W. Hutton	16-0	15-1
The Honorable Stacey W. Moreau	16-0	16-0
The Honorable Lorraine Nordlund	11-5	
The Honorable Mary Grace O'Brien	16-0	16-0
Wesley G. Russell, Jr.	13-3	
The Honorable Josiah T. Showalter	15-0 (1 abstention)	14-1 (1 abstention)
The Honorable Robert J. Smith	16-0	
Virginia B. Theisen	16-0	

I attach executive summaries with regard to each candidate for whom a finding of Qualified or Highly Qualified was made.

Respectfully submitted,



Kevin E. Martingayle
President, Virginia State Bar

Enclosures

- c: Mary Kate Felch (w/ enc.)
- The candidates (w/ enc.)
- VSB Executive Committee (w/ enc.)
- VSB Judicial Candidate Evaluation Committee (w/enc.)
- VSB Senior Staff (w/ enc.)

Report of the Virginia State Bar Judicial Candidate Evaluation Committee

W. COLEMAN ALLEN, JR.

Seeks Appointment to: Supreme Court of Virginia

Education:

- Yale University of Virginia, B.A., 1976
- University of Virginia, J.D., M.B.A., 1980

Legal Career:

- Allen, Allen, Allen & Allen, 1980-present

Law Licensure:

- Virginia, 1980
- West Virginia, 1994

Legal Association:

- Member, Virginia Trial Lawyers Association, president, 1996-97
- Vice chair, Virginia State Bar Standing Committee on Lawyer Advertising and Solicitation, 1992-94; member, 2004-06
- Member, Special Committee to Study In-Person Solicitation of Personal Injury Cases, 1990-91
- Faculty member, Virginia State Bar Professionalism Course, 1992-95
- Member, Southern Trial Lawyers Association, founding fellow; president, 1999-2000
- Fellow, Roscoe Pound Foundation
- Member, Boyd Graves Conference

Honors:

- Fellow, International Academy of Trial Attorneys
- Advocate, American Board of Trial Advocates
- Named “Leader in the Law” by *Virginia Lawyers Weekly*, 2009
- Listed in Best Lawyers in America, 1995-present
- Listed in “Best Lawyers in Richmond,” *Richmond Magazine*, July, 1999
- Listed in Super Lawyers Magazine, July, 2006–present

Community Associations:

- Sabot Hill Association
- Dover Lake Association Board of Directors
- Deep Run Hunt Club

Publications:

Sources of Coverage: Insurance Coverage for Personal Injury Actions in Virginia, 626 pages (7th ed., publ. October, 2014)

Residence:

- Manakin Sabot, Virginia

Legal Ability

The committee concludes that Mr. Allen has the requisite intellect and legal skills for the position of justice of the Supreme Court of Virginia.

Integrity

The committee finds that Mr. Allen has the highest integrity.

Temperament

The committee concludes that Mr. Allen has the requisite personality and skills to demonstrate appropriate judicial temperament.

Impartiality

The committee finds that Mr. Allen would act with appropriate impartiality and not exhibit bias or prejudice towards or against any individuals or classes of litigants who appear before him.

Diligence

The committee finds that Mr. Allen would perform his judicial and administrative duties with diligence and efficiency.

Overall Evaluation

Mr. Allen has been a plaintiff's personal injury lawyer since 1980 and has been involved in hundreds of complex civil litigation cases. He estimates that 93 percent of his practice has been before state courts of record and that he has tried 5 to 10 jury cases to conclusion in the last five years. Mr. Allen has a reputation as an excellent trial lawyer.

He is a recognized expert in the area of insurance coverage. He does not have any experience in the areas of criminal law, domestic relations, real estate, trust and estate or corporate matters. However, as a member of the Boyd Graves Conference, he actively participated in evidentiary matters related to practice areas other than his areas of expertise. Mr. Allen is a student of the law and viewed as very knowledgeable and intelligent. He authored a comprehensive legal publication and participated in many continuing legal education programs. He serves as the managing partner at the law firm of Allen, Allen, Allen and Allen.

The committee found Mr. Allen to be thoughtful, impressive and well spoken.

Candidate Evaluation for the Supreme Court of Virginia

QUALIFIED

VOTE

QUALIFIED

Yeas 16

Nays 0

October 22, 2014

Report of the Virginia State Bar Judicial Candidate Evaluation Committee

THE HONORABLE ROSSIE DAVID ALSTON JR.

Seeks Appointment to: Supreme Court of Virginia

Education:

- Averett University, B.A., 1979
- North Carolina Central University School of Law, J.D., 1982

Law Licensure:

- Virginia, 1982
- Washington, DC, 1985

Legal Career:

- Smith, Hudson, Hammond & Alston, P.C., principal, 1992-98
- Merchak Alston & Rollison, P.C., principal, 1989-92
- National Right to Work Legal Defense Foundation, staff attorney, 1984-89
- National Labor Relations Board, staff attorney, 1982-84

Judicial Career:

- Virginia Court of Appeals, 2009-present
- Prince William County Circuit Court, 2001-09
- Juvenile and Domestic Relations Court of Prince William County, 1998-2001
-

Legal Association/Bar/Committee/Organization/Teaching Positions:

- Judicial Ethics Advisory Committee, member, 2009-present
- Education Committee of the Judicial Council of Virginia, member, 2010-present
- Special Committee on Professionalism and Civility, member, 2012-present
- Equal Access to Justice Committee of the Education Committee of the Judicial Council, member, 2013-present
- Special Commission on the Rules of Criminal Discovery, member, 2014-present
- Pandemic Flu Commission, 2009-11
- Rules Committee Supreme Court of Virginia, member, 2008-10
- Professionalism Faculty, Virginia State Bar, member, 1996-98
- Fifth District Disciplinary Committee, Virginia State Bar, member, 1992-96
- American Bar Association
- Old Dominion Bar Association
- Virginia Trial Lawyers Association
- Northern Virginia Black Attorneys Association
- Prince William Bar Association
- Inns of Court
- Adjunct Professor, George Mason University
- Distinguished adjunct professor, George Mason University School of Law

Community Service:

- Christian Fellowship Softball League, commissioner, 1988-present
- Good Shepherd United Methodist Church, lay leader, 1992-2008

- Northern Virginia Football Officials Association, president, 2000-04
- Averett University, board of trustees, 1998-2002
- Skyline Football Officials Association, secretary, 1992-96

Publications:

- The Rights and Responsibilities of Union Members, Bureau of Labor Relations, 1986

Residence:

- Manassas, Virginia

Legal Ability

The committee concludes that Judge Alston has the requisite intellect and legal skills for the position of justice of the Supreme Court of Virginia.

Integrity

The committee finds that Judge Alston has the highest integrity.

Temperament

The committee finds that during his tenure on the bench, Judge Alston exhibited excellent judicial temperament.

Impartiality

The committee finds that during his tenure on the bench, Judge Alston acted with appropriate impartiality and has not exhibited bias or prejudice towards or against any individuals or classes of litigants who have appeared before him.

Diligence

The committee finds that Judge Alston performed his judicial and administrative duties with diligence and efficiency, and anticipates that he will do so as a justice of the Supreme Court of Virginia.

Overall Evaluation

Judge Alston had a successful career as a litigator before being appointed to the bench. He was involved in criminal defendant representation, domestic relations, and general civil litigation on both sides – plaintiff and defendant. He estimates about 65 percent of his legal practice was criminal defense.

Judge Alston served in recent years as a seminar panelist for the Virginia State Bar and a number of bar associations in the state. He also is a frequent volunteer at his church, several food banks and several clothing drive organizations.

The committee's background investigation found Judge Alston to have a great temperament, and to be intelligent, a conciliator, and a bridge builder. Local lawyers in his county are supportive of his move to the Supreme Court.

Judge Alston said an appointment to the Supreme Court would afford him a continuing opportunity to write and to have an impact on the law of the Commonwealth, and “to make a difference.” He describes himself as an extrovert and said he would be an ambassador for the Court.

The committee found Judge Alston to be articulate, sincere, open minded and diplomatic. His interpersonal skills and writing talents, it is thought, would fit nicely at the Supreme Court level.

Committee Evaluation for the Supreme Court of Virginia

QUALIFIED

VOTE

QUALIFIED

Yea 16

Nay 0

October 22, 2014

Report of the Virginia State Bar Judicial Candidate Evaluation Committee

THE HONORABLE RANDOLPH A. BEALES

Seeks Appointment to: Supreme Court of Virginia

Education:

- College of William and Mary, B.A., 1982
- University of Virginia School of Law, J.D., 1986

Law Licensure:

- Virginia, 1987
- District of Columbia, 1989

Legal Career:

- Christian & Barton, LLP, 2002-06
- Attorney General of Virginia, 2001-02
- Chief Deputy Attorney General of Virginia, 1998-2001
- Governor's office, Secretary of Education's office, 1994-98
- Executive director, Governor's Commission on Champion Schools, Office of the Governor, 1994-96
- Executive director, Virginia Business—Education Partnership, 1995-98
- Peterson & Basha, P.C., 1993-94
- Deputy associate director of policy development, The White House, 1992-93
- Office of the General Counsel, Office of the Secretary, and Office of Planning and Budget, U.S. Department of Education, 1987-92
- Williams, Mullen, Christian and Dobbins, 1986-87

Judicial Career:

- Court of Appeals of Virginia, 2006-present

Legal Associations/Committees/Task Forces:

- Member, Virginia Bar Association; member, Administrative Law Section Council, 2003-08; chair, Administrative Law Section, 2004-06; member, Law Practice Management Section Council, 1998-2002
- Member, Judicial Administration Committee, Judicial Conference of Virginia, 2007-13
- Member, Domestic Violence Advisory Committee to the Chief Justice, 2007-10
- Chair, Attorney General's Task Force on Child Abuse, 2001-02
- Chair, Attorney General's Task Force on OxyContin and Prescription Drug Abuse, 2001-02

Community Service:

- Member, Board of Trustees, College of William and Mary Endowment Association, 1984-90
- Children's Hospital of Richmond Board of Trustees, 2004-10
- Member, William and Mary President's Council, 1983-present
- Member, National Advisory Committee (to the U.S. Secretary of Education) on Institutional Quality and Integrity, 2002-05

- Chair, Education Committee, Virginia Chamber of Commerce, 2003-06
- Member, Senate of Virginia Ethics Advisory Panel, 2003-06
- Member, Jamestown-Yorktown Foundation Board of Trustees, 2001-02
- Member, Governor's Commission on Government Finance Reform, 2001
- Vice chair, Center for Rural Virginia Board of Trustees, 2004-06
- Member, Virginia Mentoring Partnership Board of Directors, 2003-12
- Mentor to students in the inner city Richmond Public Schools for fourteen school years
- Member, Boydton United Methodist Church
- Governor's fellow, Office of the Governor of Virginia, 1982

Legal Ability

The committee concludes that Judge Beales has the requisite intellect and legal skills for the position of justice of the Supreme Court of Virginia.

Integrity

The committee finds that Judge Beales has the highest integrity.

Temperament

The committee finds that during his tenure on the bench, Judge Beales exhibited excellent judicial temperament.

Impartiality

The committee finds that during his tenure on the bench, Judge Beales acted with appropriate impartiality and has not exhibited bias or prejudice towards or against any individuals or classes of litigants who have appeared before him.

Diligence

The committee finds that Judge Beales performed his judicial and administrative duties with diligence and efficiency, and anticipates that he will do so as a justice of the Supreme Court of Virginia.

Overall Evaluation

Judge Beales has served on the Court of Appeals since 2006. Prior to that time he was with Christian & Barton from 2002 until 2006, where he primarily had a legislative practice. From 1998 to 2002, he was with the Office of the Attorney General, serving first as Chief Deputy Attorney General, then as Attorney General from 2001 to 2002. He served in public policy roles between 1987 to 2001 in state government with the exception of two years with private firms from 1986 to 1987 and 1993 to 1994 and a year at the White House from 1992 to 1993.

Judge Beales was deeply involved in mentoring students in the City of Richmond School System for fourteen years. He was on the board of Virginia Mentoring Partnership from 2003 to 2012. He now mentors law students.

The committee’s background investigation revealed that Judge Beales has excellent legal abilities, both oral and written. He was described as having an ideal judicial temperament and being unflappable. He has the ability to work well under pressure and separate his personal feelings from professional feelings. He is well balanced and hard working. Judge Beales has the ability to think things through and research issues to reach the right conclusion. He is a strict adherent to the Constitution and Virginia’s laws. He has a tremendous respect for Virginia government, as evidenced by years of a distinguished record of public service.

The committee was impressed by Judge Beales’ sincerity, compassion, intelligence and depth of experience in state government. It is easy to understand why people describe him literally as the “nicest person.”

Committee Evaluation for Supreme Court of Virginia

QUALIFIED

VOTE

QUALIFIED

Yea 15

Nay 1

October 22, 2014

Report of the Virginia State Bar Judicial Candidate Evaluation Committee

THE HONORABLE CHADWICK S. DOTSON

Seeks Appointment to: Court of Appeals of Virginia

Education:

- University of Virginia, B.A., 1996
- Georgetown University Law Center, J.D., 1999

Law Licensure:

- Virginia, 1999

Legal Career:

- Mullins, Harris & Jessee, Norton, Virginia, Associate, 1999-2002
- Special Assistant U.S. Attorney, U.S. Attorney's Office, Western District of Virginia, 2005-07
- Commonwealth's Attorney, Wise County/City of Norton, 2002-07

Judicial Career:

- Wise Circuit Court, 2011-present, Chief Judge, 2014-present
- Wise General District Court, 2007-11, Chief Judge, 2009-11

Legal Association/Bar/Committee/Organization/Teaching Positions/Awards:

- Director of the Wise Circuit Drug Court program
- Appointed to the state Drug Court Advisory Board by the Chief Justice of the Supreme Court of Virginia
- Adjunct Professor, University of Virginia's College at Wise, Department of Social Sciences, taught two semester-long mock trial seminars, 2004-06
- Selected as one of *The Business Journal of Tri-Cities TN/VA's* "40 Under Forty," 2003
- Honored by Wise County with its 2012 "KWCB Award" for the implementation of an "Environmental Court"
- Member, Virginia Drug Court Advisory Committee
- Member, Wise County/Norton Bar Association

Community Service:

- Member, Society for American Baseball Research
- Board Member, Children's Advocacy Center, Big Stone Gap, 2003-07
- Member, Wise County Public Service Authority Board, 2000-04
- Member, Virginia Alcohol Safety Action Policy Board, 2007-11

Residence:

- Wise, Virginia

Legal Ability

The Committee concludes that Judge Dotson has the requisite intellect and legal skills for the position of judge of the Court of Appeals of Virginia.

Integrity

The Committee finds that Judge Dotson has the highest integrity.

Temperament

The Committee finds that during his tenure on the bench, Judge Dotson exhibited excellent judicial temperament.

Impartiality

The Committee finds that during his tenure on the bench, Judge Dotson acted with appropriate impartiality and has not exhibited bias or prejudice towards or against any individuals or classes of litigants who have appeared before him.

Diligence

The Committee finds that Judge Dotson performed his judicial and administrative duties with diligence and efficiency.

Overall Evaluation

Before being appointed to the bench, most of Judge Dotson's legal experience was concentrated in criminal law. As Commonwealth's Attorney, he prosecuted major cases in his jurisdiction and directed investigations in all complex felony cases. He also prosecuted cases in U.S. District Court as a special assistant U.S. Attorney. For the three years prior to 2002, Judge Dotson's practice included insurance defense, civil litigation, workers' compensation defense, and general matters. He estimates that 70 percent of his practice was in criminal law. When he was appointed to the bench in 2007, he was, at age 33, the youngest judge in the Commonwealth.

For ten years Judge Dotson has been a freelance writer. He is a regular contributor to ESPN.com's baseball coverage and writes a weekly column for *Cincinnati Magazine*. Before becoming a judge, he was a columnist for *Campaigns & Elections* magazine.

Judge Dotson loves the law and loves to write. He would like to bring those passions to the appellate court. Attorneys who appear before him describe him as a fantastic writer with a thoughtful mind and a good command of his courtroom. While these attorneys would hate to lose him as a trial judge, they feel he belongs on the appellate bench.

Committee Evaluation for Court of Appeals of Appeals

QUALIFIED

VOTE

QUALIFIED

Yeas 12

Nays 4

October 22, 2014

Report of the Virginia State Bar Judicial Candidate Evaluation Committee

L. STEVEN EMMERT

Seeks Appointment to: Supreme Court of Virginia or Court of Appeals of Virginia

Education:

- University of Richmond, B.A., 1979
- University of Virginia School of Law, J.D., 1982

Law Licensure:

- Virginia, 1982

Legal Career:

- Law Offices of Marc Jacobson, associate, 1982-90
- Assistant City Attorney, Virginia Beach City Attorney's Office, litigation section, 1990-99
- Sykes, Bourdon, Ahern & Levy, partner, 1999-present.

Legal Association/Bar/Committee/Organization/Teaching Positions:

- Chair, Boyd Graves Conference, 2014-15
- Virginia Appellate Summit, 2008, 2011; planning committee for 2015
- Chair, Virginia State Bar Litigation Section, Appellate Practice Subcommittee, 2005-08
- Member, Virginia Bar Association, 2007-present
- Chair, Virginia Bar Association Appellate Section, 2009-present
- Ex-officio member, Virginia Trial Lawyers Association Board of Directors, 2008-present; co-chair, Amicus Curiae Committee 2006-08; member, Judicial Relations Committee; member, Appellate Practice Committee; co-chair, Developments in the Law Committee, 2008-present
- Member, Virginia Trial Lawyers Association, 2004-present.
- Member, Federal Bar Association, Tidewater Chapter, 1995-present.
- Member, American Bar Association Council of Appellate Lawyers, 2005-present
- Member, Virginia Beach Bar Association, 1990-present
- Member, Norfolk and Portsmouth Bar Association, 1982-90

Community Service/Memberships:

- Member, Lynnwood Civic Association Board of Directors, 2003-07
- Member, Virginia Beach National Golf Club
- Member, The Chrysler Museum
- Member, The Virginia Zoo
- Member, Virginia Aquarium & Marine Science Center
- Member, Norfolk Botanical Garden Society

Legal Ability

The committee concludes that Mr. Emmert has the requisite intellect and legal skills for the position of justice of the Supreme Court of Virginia or judge of the Court of Appeals of Virginia.

Integrity

The committee finds that Mr. Emmert has the highest integrity.

Temperament

The committee concludes that Mr. Emmert has the requisite personality and skills to demonstrate appropriate judicial temperament.

Impartiality

The committee finds that Mr. Emmert would act with appropriate impartiality and not exhibit bias or prejudice towards or against any individuals or classes of litigants who appear before him.

Diligence

The committee finds that Mr. Emmert would perform his judicial and administrative duties with diligence and efficiency.

Overall Evaluation

Mr. Emmert has had a varied practice since he was initially licensed in 1982. From 1982 through 1990, he was engaged in the general practice of law, including civil litigation, real estate, domestic relations, wills, criminal practice, and bankruptcy. From 1990 to 1999, while with the Virginia Beach City Attorney's Office, he practiced municipal law, including the defense of challenges to municipal authority and ordinances; eminent domain proceedings; the defense of major tort and civil-rights litigation involving the city and its officials and employees; prosecution of misdemeanor offenses under the City Code; workers' compensation and employment litigation involving municipal employees; and appellate practice. From 1999 through 2006, Mr. Emmert focused on civil litigation in Virginia's trial and appellate courts.

Beginning in January 2007 through the present, Mr. Emmert's practice is almost exclusively before appellate courts in the civil arena, with some court appointments in criminal appeals. Most of his appellate work is in the Supreme Court of Virginia.

Mr. Emmert has a reputation as an excellent appellate attorney. His blog reviewing Supreme Court decisions shortly after they are issued is widely reviewed and utilized by Virginia attorneys. In addition to his blog, Mr. Emmert has moved appellate legal experience forward by spearheading an appellate practice subcommittee of the Litigation Section of the Virginia State Bar. He also worked with the Virginia Bar Association to create an appellate section.

The committee's investigation of Mr. Emmert confirmed that he has a reputation as a very good appellate lawyer with excellent ethics. Mr. Emmert generously shares his appellate knowledge with others, even when not charging a fee. Mr. Emmert currently serves as chair of the Boyd Graves Conference. In 2009, he received the Professionalism Award from the Virginia Beach Bar Association.

In the interview with the committee, Mr. Emmert presented as extremely cordial, unfailingly honest and intelligent.

Committee Evaluation for Supreme Court of Virginia

HIGHLY QUALIFIED

VOTE

QUALIFIED	Yeas	16	Nay	0
HIGHLY QUALIFIED	Yeas	14	Nay	2

Committee Evaluation for the Court of Appeals of Virginia

HIGHLY QUALIFIED

VOTE

QUALIFIED	Yeas	15	Nay	0	(1 abstention)
HIGHLY QUALIFIED	Yeas	12	Nay	3	(1 abstention)

October 22, 2014

Report of the Virginia State Bar Judicial Candidate Evaluation Committee

THE HONORABLE MARY JANE HALL

Seeks Appointment to: Court of Appeals of Virginia

Education:

- Georgetown University Law Center, J.D., 1984
- University of Maryland, B.A., 1981

Law Licensure:

- Virginia, 1986
- California, 1985

Legal Career:

- Kaufman & Canoles, P.C., Norfolk, 2000-09
- Mezzullo & McCandlish (later changed to McCandlish, Kaine & Grant), Norfolk, 1996-2000
- McGuire, Woods, Battle & Boothe, Norfolk, 1986-94

Judicial Career:

- Norfolk Circuit Court, 2009-present

Legal Association/Bar/Committee/Organization/Teaching Positions/Awards:

- Virginia Supreme Court Advisory Committee on Domestic Violence Issues in Virginia's Courts, September 2010-present
- Judicial Member, Commission on Virginia Alcohol Safety Action Program, September 2013-present
- Norfolk Domestic Violence Fatality Review Team, July 2010-present
- Norfolk Community Coordinated Response & Leadership Institute team (addressing community coordinated response to domestic and intimate partner violence)
- I'Anson Hoffman Inn of Court, executive committee
- Woman of Distinction Award, YMCA of South Hampton Roads, 2013

Civic Affiliations:

- Volunteers with certified therapy dog through Therapy Dogs International at the Children's Hospital of The King's Daughters
- Served four years on the executive council of the Coast Guard Academy Parents Association
- Norfolk Community Coordinated Leadership Committee and Domestic Violence Fatality Review Committee
- Tidewater Arts Outreach, board member, 2004-09
- Virginia Opera, board member
- Open World Program

Publications:

- The Law of Damages in Virginia, contributing author (Chapter 7: Damages for Injury to Property). Virginia CLE, May 2000, revised and reissued November 2007

- The Peer-Review privilege for Office-Based Physician Practices, Hampton Roads M.D. News, November/December 2000

Residence:

- Norfolk, Virginia

Legal Ability

The committee concludes that Judge Hall has the requisite intellect and legal skills for the position of judge of the Virginia Court of Appeals.

Integrity

The committee finds that Judge Hall has the highest integrity.

Temperament

The committee finds that during her tenure on the bench, Judge Hall has exhibited excellent judicial temperament.

Impartiality

The committee finds that during her tenure on the bench, Judge Hall has acted with appropriate impartiality and has not exhibited bias or prejudice towards or against any individuals or classes of litigants who have appeared before her.

Diligence

The committee finds that Judge Hall has performed her judicial and administrative duties with diligence and efficiency, and anticipates that she will do so as a justice of the Supreme Court of Virginia.

Overall Evaluation

Prior to her appointment to the bench, Judge Hall had a broad-based business and commercial litigation practice including health care, certificate of public need, professional liability, litigation, and administrating law, real estate and title litigation, and insurance defense. She estimates that her practice was about 70 percent commercial litigation and 30 percent tort. She also represented professionals in disciplinary matters before licensing agencies.

Judge Hall is intelligent, hardworking, charming and gracious with her predominant strengths being legal analysis and legal writing. She is an excellent writer, issuing well-reasoned decisions, who takes the time to learn the law in unusual cases. She does not rule on emotion. Some prosecutors who have appeared before her expressed concerns that she leans toward the defense.

The committee found her to be qualified for the Court of Appeals of Virginia.

Committee Evaluation for the Virginia Court of Appeals

QUALIFIED

VOTE

QUALIFIED

Yeas 9

Nays 7

October 22, 2014

Report of the Virginia State Bar Judicial Candidate Evaluation Committee

THE HONORABLE GARY A. HICKS

Seeks Appointment to: Court of Appeals of Virginia

Education:

- Virginia Commonwealth University, B.S., 1979
- Mercer University School of Law, J.D., 1982

Law Licensure:

- Virginia, 1982

Legal Career:

- Staff Attorney, Charlottesville-Albemarle Legal Aid Society, Charlottesville, 1982-1983
- Hill, Tucker & Marsh, associate, 1983-1985
- Gary A. Hicks (solo practice), Richmond, 1985-1993

Judicial Career:

- Henrico County General District Court, 1993-1999
- Henrico County Circuit Court, 1999-present
- Henrico Circuit Court Drug Court, 2002-present
- Presiding Judge, Multi-jurisdictional grand jury, 2008-present

Legal or Judicial Associations/Teaching Positions:

- Board member of the committee and mentor of the Judiciary Mentoring Program, 2012 – present
- Judicial designee and mentor judge, Hopewell, Prince George and Surry Drug Court, 2012-present
- Member, Judicial Council of Virginia, 2007-present
- Member, Virginia Supreme Court Magistrate Study Group, 2007-08; Circuit Court Judges & Clerks Committee Advisory Committee, 2007
- Judicial member, Virginia General Assembly 21-Day Rule Task Force Committee
- Adjunct professor, College of William & Mary School of Law, Trial Advocacy, 2011-present
- Adjunct professor, Virginia Commonwealth University, Department of Criminal Justice Criminal Procedure, 1998
- National Judicial College, 1994-present
- Member, American Judges Association, 1993-present
- Member, Old Dominion Bar Association, 1993-present
- Member, Virginia Trial Lawyers Association, 1993-present
- Member, National Bar Association, 1993-present
- Member, Christian Legal Society, 1993-present
- Member, Association of District Court Judges of Virginia, Inc., secretary, 1997-99
- Member, Virginia Women Attorneys Association, 1997-99
- Member, District Court Committee Bench Book Revision, 1998
- Member, The Virginia Bar Association/Young Lawyers Section National Moot Court Competition, Preliminary Round Judge, 1996-97

- Member, Association of District Court Judges of Virginia, Inc. Board of Governors, 1996-97
- Member, Judicial Conference of Virginia for District Courts Probation, Parole and Corrections Committee, 1993-1996
- Committee member and panelist, Bench-Bar Conference, 1995
- Member, Rappahannock Legal Services Board of Governors, 1984-1985
- Member, Rappahannock United Way Board of Directors, 1984-1985
- Member, Fredericksburg Community Housing Resource Board, 1983-1985
- Secretary, Fredericksburg Area Bar Association, 1984-1985

Community Service:

- Member, Henrico County Community Criminal Justice Board, 2007-present
- Vice-chair, Richmond Community Services Board, 1992-93 (member, 1990-93)
- Member, Henrico Police Athletic League Board of Governors, 2007-present
- Member, Nursing Home Ministry, Manna Christian Fellowship Church, Ashland, Virginia, 2003-present
- Cub master, Cub Scout Pack 585, Manna Christian Fellowship Church, 2003-present
- Assistant Wrestling Coach, Highland Springs High School, 1997-present
- Tutor, After School Program, First Shiloh Baptist Church, Mechanicsville 1994-99
- Leadership Metro Richmond, 1988
- Assistant Wrestling Coach, Lee-Davis High School, 1989-97
- Counselor, Henrico Emergency Shelter, 1978-79
- Relief Counselor, Stepping Stone Group Home, 1978-79
- Intern and Court Volunteer, Richmond Juvenile & Domestic Relations District Court, 1978

Honors/Recognition:

- 2010 IMPACT Man of the Year Award by IMPACT on People, Varina
- Service of Law Enforcement Award for assisting in the arrest of a murder suspect, Richmond City Police Department, January 2008
- Law Enforcement Recognition Day Service and Dedication Award, South Baptist Ministries, 2008
- Bronze Key Award, McShin Foundation, National Council on Alcoholism and Drug Dependency, 2008
- Reginald Heber-Smith Fellowship Award, National Legal Aid Society, 1982-83

Residence:

- Henrico, Virginia

Legal Ability

The committee concludes that Judge Hicks has the requisite intellect and legal skills for the position of judge of the Court of Appeals of Virginia.

Integrity

The committee finds that Judge Hicks has the highest integrity.

Temperament

The committee finds that during his tenure on the trial bench, Judge Hicks has exhibited excellent judicial temperament.

Impartiality

The committee finds that during his tenure on the bench, Judge Hicks has acted with appropriate impartiality and has not exhibited bias or prejudice towards or against any individuals or classes of litigants who have appeared before him.

Diligence

The committee finds that Judge Hicks has performed his judicial and administrative duties with diligence and efficiency.

Overall Evaluation

Prior to being appointed to the General District Court in 1993, Judge Hicks worked as a staff attorney with the Charlottesville-Albemarle Legal Society from 1982 to 1983 as the recipient of the Reginald Heber-Smith Fellowship. From 1983 to 1985, he practiced with Hill, Tucker & Marsh in Fredericksburg and had a general practice. From 1985 until his appointment to the bench, he was in private practice as a solo practitioner. He estimates that 40 percent of his practice was criminal, 25 percent tort, 25 percent real estate and 10 percent domestic relations. Of the twenty or more cases he tried to conclusion in the last five years of his practice, 95 percent were tried in state courts of record, of which 70 percent were non-jury cases.

While in private practice, Judge Hicks represented the Caroline County Department of Social Services from 1990 to 1993 and Essex Village Apartments from 1989 to 1993.

From 1993 to 1999, Judge Hicks was a general district court judge. In 1999, he became a circuit court judge for Henrico County. He sits on the Drug Court in Henrico Circuit Court.

Judge Hicks was described by lawyers who appear before him as bright, personable, always cordial, and very fair. Judge Hicks has a deep commitment to assuring that all procedural and constitutional safeguards are in place for criminal defendants, a commitment which stems from his representation of Earl Washington, Jr. (a wrongfully-convicted death-row inmate) early in his career.

Judge Hicks's opinions are well written and employ a concise writing style. All of the comments received about him were favorable. Regular practitioners before Judge Hicks shared that it would be a shame if he were to leave the circuit court bench.

Judge Hicks possesses an impressive list of community and service involvement, ranging from assistant wrestling coach at a local high school to cub master and being active in his church.

Judge Hicks offered that he is uniquely qualified for the Court of Appeals. He started his career in legal aid and been on both sides of many issues, as an attorney and then as a judge. By way of examples: he tried death penalty cases as a lawyer and then heard them as a judge; he represented people in family law cases and then heard family law disputes as a judge. Judge Hicks said these experiences give him perspectives that others may not have. He has been a mentor throughout his life to children and, more recently, to other judges.

The committee was impressed with his attitude and outlook on life, his activities with the bar and in the community, and his availability to others. Members also admired his courage, presentation, and confidence.

Committee Evaluation for the Court of Appeals of Virginia

HIGHLY QUALIFIED

VOTE

QUALIFIED	Yeas	16	Nays	0
HIGHLY QUALIFIED	Yeas	14	Nays	2

October 22, 2014

Report of the Virginia State Bar Judicial Candidate Evaluation Committee

THE HONORABLE CHRISTOPHER W. HUTTON

Seeks Appointment to: Court of Appeals of Virginia

Education:

- University of Virginia, B.A., 1972
- College of William and Mary, Marshall-Wythe School of Law, J.D., 1975

Law Licensure:

- Virginia, 1976

Legal Career:

- Commonwealth's Attorney, Hampton, 1982-1995
- Assistant Commonwealth's Attorney, 1976-1982
- Special Assistant United States Attorney, 1987-1995

Judicial Career:

- Hampton Circuit Court, 1995-present

Legal Association/Bar/Committee/Organization/Teaching Positions/Awards:

- Virginia State Bar Criminal Law Section, 1988-92 (Chair, 1990-91)
- Virginia Bar Association Criminal Law Section, Council, 1997-2005
- Hampton Bar Associations, Director, 1984-85, 1995
- Virginia Association of Commonwealth's Attorneys, Board of Directors, 1992-95, president, 1994-95
- Commonwealth's Attorneys' Services Council, Board of Directors, 1986-90, 1991; Chairman, 1994-95

Community Service:

- Virginia United Methodist Homes, Inc., director, 1990-92
- NAACP, Hampton Branch, life member
- Fraternal Order of Police, past member
- Hampton Rotary Club, past member
- Voluntary Action Center of the United Way, past president

Residence:

- Hampton, Virginia

Legal Ability

The Committee concludes that Judge Hutton has the requisite intellect and legal skills for the position of judge of the Court of Appeals of Virginia.

Integrity

The committee finds that Judge Hutton has the highest integrity.

Temperament

The committee finds that during his tenure on the bench, Judge Hutton exhibited excellent judicial temperament.

Impartiality

The committee finds that during his tenure on the bench, Judge Hutton acted with appropriate impartiality and has not exhibited bias or prejudice towards or against any individuals or classes of litigants who have appeared before him.

Diligence

The committee finds that Judge Hutton performed his judicial and administrative duties with diligence and efficiency.

Overall Evaluation

Judge Hutton has been a circuit court judge for nineteen years. Before being elected to that position, he served as commonwealth's attorney for Hampton from 1982 until 1995. He served as assistant commonwealth's attorney for six years before that. He was also a special assistant U.S. Attorney from 1987 until becoming a judge. The vast majority of his practice dealt with criminal prosecution and child custody and child support issues. He estimates that, in the five years prior to becoming a judge, about 45 percent of his practice was criminal and 54 percent civil.

He volunteers as a judge at the Marshall-Wythe School of Law for Trial Skills and Advocacy courses. He also speaks before the Citizen's Court Academy, Police Court Academy, and local bar associations.

Judge Hutton served in the U.S. Army Reserve from 1975 to 1987. He was honorably discharged as a captain.

The committee's background investigation found that Judge Hutton is respected and admired, patient and humble, extremely fair with a dry sense of humor. The Hampton Bar Association has endorsed him for the Court of Appeals of Virginia. Judge Hutton said he wanted to bring his long experience in the courtroom handling every type of case to the Court of Appeals.

The committee was impressed with his experience, his demeanor and the high regard with which he is viewed by the members of the legal community in Hampton.

Committee Evaluation for the Court of Appeals of Virginia

HIGHLY QUALIFIED

VOTE

QUALIFIED	Yeas 16	Nays 0
HIGHLY QUALIFIED	Yeas 15	Nays 1

Report of the Virginia State Bar Judicial Candidate Evaluation Committee

THE HONORABLE D. ARTHUR KELSEY

Seeks Appointment to: Supreme Court of Virginia

Education:

- Old Dominion University, B.A., 1982
- College of William and Mary, Marshall-Wythe School of Law, J.D., 1985

Law Licensure:

- Virginia, 1985

Legal Career:

- Law Clerk, Chief Judge John A. MacKenzie, United States District Court for the Eastern District of Virginia, 1985-86
- Hunton & Williams, 1986-99

Judicial Career:

- 5th Judicial Circuit of Virginia (Suffolk, Southampton, and Isle of Wight), 2000-02
- Court of Appeals of Virginia, 2002-present

Legal Association/Bar/Committee/Organization/Teaching Positions:

- Adjunct professor, Marshall-Wythe School of Law, College of William & Mary, and Regent University School of Law
- Boyd-Graves Conference (Steering Committee, Standing Committee on Evidence, and various *ad hoc* committees)
- Civil Litigation Council of Virginia Bar Association
- Judicial Section Council of Virginia Bar Association
- Virginia Supreme Court Judicial Council Advisory Committee on Rules of Court
- Virginia Supreme Court Advisory Commission on Statewide E-Filing Initiative
- Virginia Judicial Administration Committee of Virginia Judicial Conference
- Virginia Judicial Council Advisory Committee on Appellate Rules of Court
- Virginia Judicial Council Advisory Committee on Court Records Confidentiality
- Virginia Judicial Council Advisory Committee on Court Reporters
- Virginia Court of Appeals Committee on Mediation
- Virginia Court of Appeals Committee on Long Range Planning
- Virginia Court of Appeals Committee on Courthouse Location
- Virginia Court of Appeals Committee on Court Reporters
- Lecturer at 2007, 2008 & 2010 Virginia Supreme Court Judicial Conferences
- Lecturer at 2004, 2013 Norfolk-Portsmouth Bench-Bar Conferences
- Lecturer at 2003 annual meeting of Virginia Defense Attorneys Association
- Lecturer at 2004 & 2008 meetings of Virginia State Bar Young Lawyer's Conference
- Lecturer at 2003 Chesapeake Bar Association Law Day
- Lecturer at 2010 meeting of Portsmouth Charter Commission
- Lecturer at 2008 annual meeting of Roanoke Bar Association
- Lecturer at 2002 & 2013 Portsmouth Bar Association Law Days
- Lecturer at 2011 Richmond Bench-Bar Conference

- Lecturer at 2003, 2006, 2014 annual meetings of Virginia Bar Association
- Lecturer at 2004 Virginia CLE Conference on Workers' Compensation

Publications:

- *The Laws of Physics and the Physics of Laws*, 62 Virginia Lawyer 9, at 30 (2014) (abridged version)
- *The Commonwealth's Common Law*, 40 VBA Journal 26 (Winter 2013-14), available at <http://vba.epubxp.com/i/229980>
- *The Resurgent Role of Legal History in Modern U.S. Supreme Court Cases*, 37 VBA JOURNAL No. 3, at 10 (Fall 2010), available at http://www.lextrajectus.com/html/unit_1.html
- *The Architecture of Judicial Power: Appellate Review & Stare Decisis*, 53 VIRGINIA LAWYER, No. 3 (Oct. 2004), available at <http://www.vsb.org/docs/valawyerjournal/oct04kelsey.pdf>; see also 45 THE JUDGES' JOURNAL 2, at 6-13 (ABA 2006), available at <http://euro.ecom.cmu.edu/program/law/08-732/Courts/architectjudicialpwr.pdf>
- *The Laws of Physics and the Physics of Laws*, 25 Regent U. L. Rev. 89 (2012), available at http://www.lextrajectus.com/dak%20articles/physics_of_law_final_.pdf
- *Law & Politics: The Imperative of Judicial Self-Restraint*, 28 VBA JOURNAL No. 6, at 6-9 (Sept. 2002), available at <http://216.230.13.18/section/judicial/publication.htm>
- *Procedural Defaults: Balancing Systemic & Individual Justice*, 1 VTLA APPELLATE JOURNAL 1-22 (2012), available at <http://www.vtla.us/2012/Appellate/Issue1/KELSEY-Procedural.pdf>
- *The Thing Decided: Rule 1:6's Rediscovery of Res Judicata in Virginia*, 34 VBA JOURNAL No. 2, at 18-21, 26 (June/July 2008), available at <http://vba.affiniscape.com/associations/11069/files/vnj0708.pdf>
- *Virginia's Answer To Daubert's Question Behind The Question*, 90 JUDICATURE No. 2, 68-71 (2006), at http://www.ajs.org/ajs/publications/Judicature_PDFs/902/Kesley_902.pdf
- *Procedural Defaults In Virginia Trial Courts: The Adversarial Model & The Imperative of Neutrality*, 55 VIRGINIA LAWYER 3, at 38 (Oct. 2006), available at <http://www.vsb.org/site/publications/valawyer/virginia-lawyer-magazine-october-2006>
- *Social Compact as Law: The Workers' Compensation Act and the Wicked Sisters of the Common Law*, 31 VBA JOURNAL No. 5, at 13-21 (Oct./Nov. 2005), available at <http://vba.affiniscape.com/associations/11069/files/octnov05.pdf>
- *Law & Equity in Virginia*, 28 VBA JOURNAL No. 8, at 6-10 (Dec. 2002), available at <http://216.230.13.18/dec02.htm>
- *In Rem Liens & Ship Repair Contracts*, SHIPPING FINANCE ANNUAL 177-79 (Euromoney PLC 1996)
- Robert M. Hughes III & D. Arthur Kelsey, *Toxic & Environmental Torts Within Admiralty*, 62 TUL. L. REV. 405 (1988), available at <http://heinonline.org/HOL/LandingPage?collection=journals&handle=hein.journals/tulr62&id=&page=405>
- D. Arthur Kelsey & John E. Holloway, *Mistaken LHWCA Compensation Payments: Subrogation Lien Or Third Party Credit?*, 30 J. MAR. L. & COM. 19 (1999), available at <http://heinonline.org/HOL/LandingPage?handle=hein.journals/jmlc30&div=10&id=&page=>
- Wendy Cohen & D. Arthur Kelsey, *The Virginia Lawyer* (Lexis L. Pub.), Ch. 3 (1998)
- Contributing Author, ABA Section of Antitrust Law, *Antitrust Law Developments* (4th ed. 1997 & Supp. 1998)
- Associate Editor, *American Maritime Cases* (Mar. L. Ass'n) (1999-2000)

Residence:

- Suffolk, Virginia

Legal Ability

The committee concludes that Judge Kelsey has a superior intellect and the legal skills for the position of justice of the Supreme Court of Virginia.

Integrity

The committee finds that Judge Kelsey has the highest integrity.

Temperament

The committee finds that during his tenure on the Circuit Court for the Fifth Judicial Circuit and on the Court of Appeals of Virginia, Judge Kelsey exhibited excellent judicial temperament.

Impartiality

The committee finds that during his tenure on the bench, Judge Kelsey acted with appropriate impartiality and has not exhibited bias or prejudice towards or against any individuals or classes of litigants who have appeared before him.

Diligence

The committee finds that Judge Kelsey performs his judicial and administrative duties with diligence and efficiency, and anticipates that he will do so as a justice of the Supreme Court of Virginia.

Overall Evaluation

After serving as a law clerk to Chief Judge MacKenzie of the United States District Court for the Eastern District of Virginia, Judge Kelsey was in private practice with the firm of Hunton & Williams for fourteen years. His practice involved trial and appellate litigation in federal and state courts in a wide variety of subject areas, including defense of personal injury and wrongful death claims, maritime and admiralty cases, commercial disputes, partnership claims, government contract disputes, employment litigation and advice, trademark litigation, civil rights litigation, shipbuilding and repair contract disputes, defamation and products liability cases, as well as municipal law matters.

During the last five years of his practice, approximately 60 percent of his cases were tried in federal court and 40 percent in state court. They were divided equally between jury and non-jury trials. While Judge Kelsey handled no criminal or domestic relations cases while in private practice, he developed considerable experience in both area while presiding over such cases as a circuit court judge and through appellate review during his tenure on the Court of Appeals.

Judge Kelsey has been active in organized bar activities and in the work of the Judicial Council. He serves on a number of advisory committees of the Judicial Council, namely: Rules of Court, Appellate Rules of Court, Court Records Confidentiality, Court Reporters, and on the Court of Appeals Committees on Mediation and Long Range Planning.

Judge Kelsey is a prolific writer. As a circuit court judge, he issued a large number of written opinions. He authored a number of published articles that have appeared in various legal periodicals. It is evident that he is an outstanding writer who routinely issues very scholarly opinions.

The committee's background investigation revealed that Judge Kelsey is uniformly regarded as a superior appellate judge, with almost all practitioners and other judges emphasizing his extraordinary intellect. He is considered extremely knowledgeable and articulate, while also exhibiting humility.

The committee found Judge Kelsey to be fair, knowledgeable, careful, gracious, an elegant writer and highly intelligent.

Judge Kelsey said he is not motivated by any desire to move up to the highest court in Virginia, but by his love of the law, and that he would bring that attitude to the Supreme Court. "Put the uniform on me and put me in," he said. He also noted his strong religious faith and empathy for others. He said a judge should reason to the result, not from the result.

Committee Evaluation for the Supreme Court of Virginia

HIGHLY QUALIFIED

VOTE

QUALIFIED	Yea	16	Nay	0
HIGHLY QUALIFIED	Yea	14	Nay	2

October 22, 2014

Report of the Virginia State Bar Judicial Candidate Evaluation Committee

THE HONORABLE STEPHEN R. McCULLOUGH

Seeks Appointment to: Supreme Court of Virginia

Education:

- University of Virginia, B.A., 1994
- University of Richmond, T.C. Williams School of Law, J.D., 1997

Legal Career:

- Law Clerk, Justice Leroy R. Hassell, Sr., Supreme Court of Virginia, 1997-99
- Office of the Attorney General, 1999-2011 (Assistant Attorney General, 1999-2006; Deputy State Solicitor General, 2006-08; State Solicitor General, 2008-10; Senior Appellate Counsel/opinions counsel, 2010-11)

Judicial Career:

- Court of Appeals of Virginia, 2011-present

Legal Associations/Teaching Positions:

- Supreme Court fellow, National Association of Attorneys General, 2007
- Member, John Marshall Inn of Court
- Member, Supreme Court of Virginia Model Jury Instructions Committee, 2003-11; chair, 2011-present
- Member, Boyd Graves Conference Drafting Committee, *Guide to Evidence in Virginia*, 2003-11
- Supreme Court of Virginia Access to Justice Commission, 2013-present
- Administration Committee, 2014-present
- Member, Virginia Indigent Defense Commission Standards of Practice Committee, Spring and Summer 2006
- Instructor, University of Richmond School of Law, Law Skills IV, Spring 2005, 2006, 2011-12
- Instructor, University of Mary Washington, Business Law, Fall 2014 and Spring 2000-2001

Community Associations:

- Presbyterian Church of Fredericksburg
- Tutor, Boys & Girls Club of the Greater Rappahannock Region, volunteer of the year for 2013

Residence:

- Spotsylvania, Virginia

Publications:

- Stephen R. McCullough, *Standards of Review, A Judge's Perspective*, VTLA APPEAL, No. 1 p. 6 (2013)

- Stephen R. McCullough, *Essay: Article I Section 13 of the Virginia Constitution: of Militias and an Individual Right to Bear Arms*, 48 UNIVERSITY OF RICHMOND LAW REVIEW 215 (2013)
- Stephen R. McCullough, *Essay: Modern Transportation Needs and the Prohibitions of Article X, § 10 of the Virginia Constitution*, 47 UNIVERSITY OF RICHMOND LAW REVIEW 441 (2012)
- Stephen R. McCullough, *A Vanishing Virginia Constitution?* 46 UNIVERSITY OF RICHMOND LAW REVIEW 347 (2011)
- Stephen R. McCullough, *Virginia Constitution Requires a Majority of ‘Justices’ to Invalidate a Law on Constitutional Grounds*, ON APPEAL, Vol. II (Summer 2011)
- Alice C. Armstrong & Stephen R. McCullough, *Motions Practice*, Appellate Practice in Virginia and Federal Courts: Appeals to the United States Court of Appeals (Virginia CLE, 5th Ed. 2011)
- Co-author with various authors, *Criminal Law, Annual Survey of Virginia Law*, UNIVERSITY OF RICHMOND LAW REVIEW (2003-10)
- Kenneth C. Bass, III, & Stephen R. McCullough, *Motions Practice, Appellate Practice in Virginia and Federal Courts: Appeals to the United States Court of Appeals* (Virginia CLE, 4th Ed. 2008)
- Authored entries for Justice Samuel Alito, Clarence Thomas, and *Abington v. Schempp* in *Encyclopedia of Education Law* (Charles J. Russo, ed. 2008)

Legal Ability

The committee concludes that Judge McCullough has the requisite intellect and legal skills for the position of justice of the Supreme Court of Virginia.

Integrity

The committee finds that Judge McCullough has the highest integrity.

Temperament

The committee finds that during his tenure on the bench Judge McCullough exhibited excellent judicial temperament.

Impartiality

The committee finds that during his tenure on the bench Judge McCullough acted with appropriate impartiality and has not exhibited bias or prejudice towards or against any individuals or classes of litigants.

Diligence

The committee finds that during his tenure on the bench Judge McCullough performed his judicial and administrative duties with diligence and efficiency.

Overall Evaluation

Judge McCullough was appointed to the Court of Appeals of Virginia in 2011.

Once licensed, Judge McCullough, from 1997 to 1999, conducted legal research, prepared memoranda of law, reviewed petitions for appeal, and assisted Justice (later Chief Justice) Hassell with drafting and proofreading of judicial opinions.

Then, as an Assistant Attorney General from 1999 to 2006, Judge McCullough handled criminal appeals in state appellate courts, litigated petitions for writs of *habeas corpus* at the trial and appellate levels in state and federal courts, reviewed and drafted legislation and official opinions and advised state agencies and prosecutors. As a unit leader in 2006, he reviewed briefs for three or four attorneys within the unit. Judge McCullough became the Deputy State Solicitor General in the Spring of 2006. In that position, while working under the direct supervision of the State Solicitor General, he served as either the primary author or primary editor for all of the appellate briefs and *amicus curiae* briefs filed by the State Solicitor General Section, and presented oral argument in cases as assigned by the State Solicitor General. He provided advice to the Attorney General and his senior staff, other elected officials, cabinet secretaries, the attorneys general and solicitors general of other states, judges, and attorneys in all divisions of the office on appellate matters and issues of constitutional law.

In the role of State Solicitor General, a position Judge McCullough held from Fall 2008 to January 2010, he represented Virginia in the United States Supreme Court (excepting capital cases). He also handled federal and state appellate litigation presenting a significant constitutional challenge to a statute, regulation, or policy, including brief writing at all stages of appellate review and *amicus curiae* briefs filed by the Commonwealth of Virginia. He made recommendations to the Attorney General with respect to *amicus curiae* memoranda submitted on behalf of other states, and provided constitutional law advice to the Attorney General, institutions or agencies of the Commonwealth of Virginia, as well as committees and members of the General Assembly during the legislative session.

In his position as Senior Appellate Counsel/Opinion Counsel, Judge McCullough worked with the State Solicitor General as either the primary author or primary editor for all of the appellate briefs and *amicus curiae* briefs filed by the State Solicitor General Section. He provided advice to the Attorney General and his senior staff, other elected officials, cabinet secretaries, the attorneys general and solicitors general of other states, judges, and attorneys in all divisions of the Attorney General's Office on appellate matters and issues of constitutional law. He served as primary drafter or primary editor for the official opinions, informal opinions and conflicts opinions issued by that Office.

Judge McCullough serves on the Virginia Model Jury Instruction Committee (2003 to present; chair, 2012 to present) and the Guide to Evidence in Virginia drafting committee (2003 to present). He is an active member of the John Marshall Inn of Court and the Supreme Court's Access to Justice Commission. In addition, he is active in his community.

Judge McCullough is doing an excellent job on the Court of Appeals of Virginia. He fits in well with the other judges on the Court of Appeals. At the interview, Judge McCullough presented as bright, articulate, and witty.

Committee Evaluation for the Supreme Court of Virginia

QUALIFIED

VOTE

QUALIFIED

Yeas 11

Nays 5

October 22, 2014

Report of the Virginia State Bar Judicial Candidate Evaluation Committee

THE HONORABLE STACEY W. MOREAU

Seeks Appointment to: Court of Appeals of Virginia

Education:

- Randolph Macon College, B.A., 1987
- University of Richmond, T.C. Williams School of Law, J.D., 1990

Law Licensure:

- Virginia, 1990
- Louisiana, 1991 (inactive 1998)

Legal Career:

- Williams, Morrison, Light and Moreau, partner, Danville, 1994-03
- Law Offices of Glen D. Vamoras, associate, Lake Charles, Louisiana, 1991-94
- Williams, Stilwell and Morrison, associate, Danville, 1990

Judicial Career:

- 22nd Judicial Circuit Court (Pittsylvania County, Franklin County, City of Danville), 2012-present
- 22nd Judicial District Juvenile and Domestic Relations Court (Pittsylvania County, Franklin County, City of Danville), 2003-12

Legal Association/Bar/Committee/Organization/Teaching Positions/Awards:

- Virginia Association of Women Judges, current member
- Association of District Court Judges of Virginia, Inc., past member; second vice president and secretary
- District Court Judges Bench Book, past member; committee member
- Virginia Council of Juvenile and Domestic Relations District Court Judges, past member
- Franklin County Family Violence Fatality Review Team, past member
- Circuit Court Forms Advisory Committee, current member
- District Courts Forms Advisory Committee, committee member
- Department of Juvenile Justice Judicial Liaison Committee, committee member
- Pandemic Flu Preparedness Commission, committee member
- Judicial Mentoring Program Advisory Committee (JDR District Ct.), mentor judge

Community Service:

- Mount Cross Volunteer Fire Department Board of Directors
- Mt. Olivet United Methodist Church, member; administration board member; Charlie's Blessing's from Mt. Olivet UMC (Thanksgiving food baskets giveaway); lay speaker in the Danville District of United Methodist; Bible study leader

Residence:

- Danville, Virginia

Legal Ability

The committee concludes that Judge Moreau has the requisite intellect and legal skills for the position of judge of the Court of Appeals of Virginia.

Integrity

The committee finds that Judge Moreau has the highest integrity.

Temperament

The committee finds that during her tenure on the bench, Judge Moreau has exhibited excellent judicial temperament.

Impartiality

The Committee finds that during her tenure on the bench, Judge Moreau acted with appropriate impartiality and has not exhibited bias or prejudice towards or against any individuals or classes of litigants who have appeared before her.

Diligence

The committee finds that Judge Moreau performed her judicial and administrative duties with diligence and efficiency.

Overall Evaluation

Before her election to the bench, Judge Moreau's primary area of practice was family law. She started with a general practice that involved criminal, civil, and chancery matters. The practice later narrowed to matters that involved families: divorce, custody, visitation, support, adoptions, and domestic violence issues. She also practiced in the areas of personal injury and certain types of criminal matters. She estimates that 90 percent of her practice involved domestic relations.

She regularly attends judicial conferences and seminars, including seven during the last three years.

On the bench, Judge Moreau is reported to be deliberate, analytical, methodical, thoughtful, respectful, prepared, well versed in the law, and a hard worker. She carefully listens, encourages by her demeanor, considers differing viewpoints, and explains her rulings from the bench in comprehensive detail. In her interview, she commented on how much she would enjoy working on the Court of Appeals and the diversity she would bring to that bench from Southside Virginia.

The committee was impressed with her background, her presentation and the results of the background investigation.

Committee Evaluation for the Court of Appeals of Virginia

HIGHLY QUALIFIED

VOTE

QUALIFIED	Yeas	16	Nays	0
HIGHLY QUALIFIED	Yeas	16	Nays	0

October 22, 2014

Report of the Virginia State Bar Judicial Candidate Evaluation Committee

THE HONORABLE LORRAINE NORDLUND

Seeks Appointment to: Court of Appeals of Virginia

Education:

- Virginia Polytechnic Institute and State University, B.S., 1977
- Marshall Wythe School of Law at the College of William and Mary, J.D., 1980

Law Licensure:

- Virginia, 1981

Legal Career:

- Law Clerk, Fairfax Circuit Court, 1980-81
- Assistant Commonwealth's Attorney, Fairfax County, 1982-86
- Private practice, 1986-96

Judicial Experience:

- Judge, Fairfax Circuit Court, 2010-present
- Judge, Fairfax General District Court, 1996-2010

Legal Association/Bar/Committee/Organization/Teaching Positions/Awards:

- Member, Judicial Education Committee of the Virginia Supreme Court, 2012-present
- Speaker, Virginia Supreme Court Education Conferences (speaker/moderator at mandatory Circuit Court Conferences and at training seminars for newly-appointed and substitute judges)
- Member, National Association of Women Judges, 1996-present
- Board member, Association of General District Court Judges, 2001-10
- Member, Fairfax Circuit Court Magistrate Selection Committee, 2000-06
- Master, George Mason Inn of Court (now emeritus status)
- Member, Fairfax Bar Association, 1981-present
- Lecturer, Northern Virginia Regional Police Academy (prior to 2009)
- Coach/Advisor, Moot Court/Model Judiciary Programs for George Mason University, Fairfax Circuit Court, and Fairfax County Public Schools, 1993-present
- Member, McLean Bar Association, 1986-96
- Member, Fairfax County Criminal Advisory Board, 1989-1994

Residence:

- Fairfax, Virginia

Legal Ability

The committee concludes that Judge Nordlund has a superior intellect and legal skills for the position of judge of the Court of Appeals of Virginia.

Integrity

The committee finds that Judge Nordlund is a person of the highest integrity.

Temperament

The committee finds that Judge Nordlund has an excellent temperament.

Impartiality

The committee feels that Judge Nordlund would act with appropriate impartiality and not exhibit bias or prejudice towards or against any individuals.

Diligence

The committee finds that Judge Nordlund has performed her duties with diligence and efficiency and anticipates that she would do so as a judge of the Court of Appeals of Virginia.

Overall Evaluation

From 1982 to 1986, Judge Nordlund was an Assistant Commonwealth's Attorney for Fairfax County. She was in court virtually every day. Her office covered all traffic and criminal cases in the General District Court, all criminal cases in the Juvenile and Domestic Relations Court, and all felony cases charged or indicted in the County. During her tenure, she prosecuted an average of five jury trials a month, handled ten to thirty preliminary hearings per week, and tried thousands of misdemeanors and infractions. The felony cases she handled ranged from grand larceny and credit card fraud to robbery, manslaughter, rape (including two serial rape cases), embezzlement, and drug charges.

She was in private practice for ten years before her 1996 appointment to the bench. During the first five years, Judge Nordlund practiced with Gary V. Davis in a broad litigation practice. She argued cases before the Supreme Court of Virginia; tried cases in state courts in various jurisdictions, as well as before the U.S. District Court for the Eastern District of Virginia, and Alexandria Federal Magistrate's Court; and appeared before numerous civil commissions. It was her responsibility to handle the firm's collection and landlord tenant matters (the firm had two large commercial landlords as clients). She litigated a wide variety of civil disputes for corporate and individual clients, and began defending criminal cases ranging from misdemeanors to felony jury matters in both state and federal courts. She also handled all manner of employment issues before civil boards and courts of record, including an equal protection class action suit brought in the U.S. District Court for the Eastern District of Virginia that went to trial.

During the latter half of her private practice period, Judge Nordlund began to focus primarily on domestic relations, at which time she joined Fite, O'Brien & Byrum, Ltd. in McLean. While there, and until her 1996 appointment to the Fairfax General District Court, she continued to engage in a very broad general practice, but her domestic practice took precedence as she began handling complex equitable distribution cases and complicated custody and support matters more frequently.

As an Assistant Commonwealth's Attorney, she prosecuted an average of four to five jury trials per month. While in private practice with Gary V. Davis (1986-1991), she took part in approximately ten civil and criminal trials before juries. She did not try any jury cases in the last five years of her practice, all were resolved prior to trial.

Judge Nordlund was on the General District Court bench for four years, and on the Circuit Court bench since 2010. As a circuit court judge, she presided over dozens of civil and criminal jury trials.

The background investigation on Judge Nordlund revealed that lawyers who appear before her are pleased with her demeanor and decisions. She explained in her interview that she loves the intellectual challenge of circuit court and particularly likes civil motions practice in Fairfax Circuit Court.

Committee Evaluation for the Virginia Court of Appeals

QUALIFIED

VOTE

QUALIFIED

Yeas 11

Nays 5

October 22, 2014

Report of the Virginia State Bar Judicial Candidate Evaluation Committee

THE HONORABLE MARY GRACE O'BRIEN

Seeks Appointment to: Court of Appeals of Virginia

Education:

- LeMoyne College, B.A., 1980
- Washington and Lee University School of Law, J.D., 1983

Law Licensure:

- Virginia, 1983

Legal Career:

- Assistant Commonwealth's Attorney, Prince William County, 1985-2001
- Judicial clerk to the Honorable Roscoe B. Stephenson Jr., Supreme Court of Virginia, 1983-85

Judicial Career:

- Prince William Circuit Court, 2008-present
- Prince William Juvenile and Domestic Relations District Court, 2001-08

Legal Association/Bar/Committee/Organization/Teaching Positions:

- Virginia Model Jury Instructions Committee, 2012-present.
- Judicial Mentoring Steering Committee, 2011
 - Judicial mentor for new circuit court judge, 2014
- Virginia State Bar Board of Governors, Education Committee Member, 2013-present.
- Association of District Court Judges of Virginia, Inc.
 - Benchbook Committee, 2001-08
 - Judicial Conduct Committee, 2001-04
- Prince William County Drug Court team member, 2001-05
- Virginia State Bar Professionalism Course
 - Lecturer/faculty member, 2002-05
 - Law School Professionalism Course, 2005-13
- Prince William County Bar Association
 - 1987, treasurer
 - 1990-91, Professionalism Committee
 - 1996, Nominating Committee
 - 1998-present, Sinclair Professionalism Committee
- Prince William County/City of Manassas Regional Jail Board Member, 1993-2000
- Seventh District Bar Disciplinary Committee, 1991-92
- Fifth District Bar Disciplinary Committee, Vice-Chair, 1992-93
- Prince William County Juvenile Curfew Task Force, 1996-97
- George Mason Inn of Court

Community Service:

- Volunteer at the monthly breakfast (preparing and serving breakfast for residents) at the SERVE homeless Shelter
- Volunteer at T.O.P.S. soccer program, assisting disabled children with soccer skills

- Assisted the Benedictine Sisters of Bristow with set-up and clean-up for their annual Monastery Christmas sale. Also have served as a liturgy reader at weekly Mass for the past ten years.

Residence:

- Nokesville, Virginia

Legal Ability

The committee concludes that Judge O'Brien has the requisite intellect and legal skills for the position of judge of the Court of Appeals.

Integrity

The committee finds that Judge O'Brien has the highest integrity.

Temperament

The committee finds that during her tenure on the bench, Judge O'Brien exhibited excellent judicial temperament.

Impartiality

The committee finds that during her tenure on the bench, Judge O'Brien acted with appropriate impartiality and has not exhibited bias or prejudice towards or against any individuals or classes of litigants who have appeared before her.

Diligence

The committee finds that Judge O'Brien performed her judicial and administrative duties with diligence and efficiency.

Overall Evaluation

As a law clerk for Justice Roscoe Stephenson, Judge O'Brien researched legal issues and assisted with drafts of opinions. She also wrote legal memoranda concerning petitions for appeal.

During her 16 years as an Assistant Commonwealth's Attorney, Judge O'Brien's practice was exclusively in the area of criminal prosecution. She tried felony cases to judges and juries. She prepared briefs in opposition to petitions for appeal for the Court of Appeals and the Supreme Court of Virginia.

She also served as a special prosecutor in Fauquier County, Warren County, and Shenandoah County and as a substitute prosecutor in Fauquier County. She provided legal advice to the Prince William County Police Department concerning the institution of criminal charges.

She taught police officers and police auxiliary at the Rappahannock Regional Academy, and provided legal updates to officers at the Prince William County Police Academy and Prince William-Manassas Regional Adult Detention Center.

The committee background investigation found that Judge O'Brien is compassionate, thoughtful, and careful. She is held in the highest regard by the bar in her area and was described as a rising star. A recent judicial review survey conducted in her circuit revealed universal praise from lawyers who described her as an excellent judge, a pleasure to appear before, great, "probably the best judge in Northern Virginia," and other superlatives.

Judge O'Brien said she enjoys legal writing and looks forward to the collaborative aspect of working with other judges if appointed to the Virginia Court of Appeals. She brings thirty years of experience working on criminal and domestic relations cases, including fourteen years as a trial court judge.

The committee unanimously found Judge O'Brien to be highly qualified and noted that she is a shining light in her circuit who will be missed if she advances to the Court of Appeals.

Committee Evaluation for the Court of Appeals of Virginia

HIGHLY QUALIFIED

VOTE

QUALIFIED	Yea	16	Nay	0
HIGHLY QUALIFIED	Yea	16	Nay	0

October 22, 2014

Report of the Virginia State Bar Judicial Candidate Evaluation Committee

WESLEY G. RUSSELL Jr.

Seeks Appointment to: Court of Appeals of Virginia

Education:

- University of Virginia, B.A., 1992
- George Mason University School of Law, 1995

Law Licensure:

- Virginia, 1995

Legal Career:

- Bland & Sorkin, P.C., Richmond, principal, 2014-present
- Office of the Attorney General, Richmond, Deputy Attorney General, 2010-14
- McSweeney, Crump, Childress & Temple, P.C., Richmond, partner, 2006-10
- Childress, Gould & Russell, P.C. (and predecessors), Richmond, managing partner, 2003-06
- Crews & Hancock, P.L.C., Richmond, senior litigation associate, 1996-2003
- Circuit Court of the City of Richmond, law clerk, 1995-96

Legal Association/Bar/Committee/Organization/Teaching Positions/Awards:

- Virginia Code Commission, 2011-14
- Virginia Supreme Court Committee on E-Filing, 2011-14
- Bar Association of the City of Richmond, 1996-present; Finance Committee, 2006-08; Membership Committee, 2008
- John Marshall Inn of Court

Publications:

- Cuccinelli, Getchell & Russell, *Law in an Age of Austerity: Judicial Compulsion and the Public Fisc- A Historical Overview*, 35 HARVARD JOURNAL OF LAW & PUBLIC POLICY 525 (2012)
- Cuccinelli, Getchell & Russell, *State Sovereign Standing: Often Overlooked, But Not Forgotten*, 64 STANFORD LAW REVIEW 89 (2012)
- Cuccinelli, Getchell & Russell, *Why the Debate Over the Constitutionality of the Federal Health Care Law is About Much More than Health Care*, 15 TEXAS REVIEW OF LAW & POLITICS 293 (2011)

Residence:

- Henrico County, Virginia

Integrity

The committee finds that Mr. Russell is a person of the highest integrity.

Temperament

The committee finds that Mr. Russell has an excellent temperament.

Impartiality

The committee feels that Mr. Russell would act with appropriate impartiality and not exhibit bias or prejudice towards or against any individuals.

Diligence

The committee finds that Mr. Russell has performed his duties with diligence and efficiency and anticipates that he would do so as a judge of the Court of Appeals of Virginia.

Overall Evaluation

Mr. Russell returned to private practice this year after four years as Deputy Attorney General for civil litigation in Richmond. He currently represents multiple health-care providers in circuit courts. He also handles commercial and constitutional cases. Some of his practice is now devoted to government relations work. He also speaks at CLEs focused on Virginia appellate practice and procedure, the Virginia State Bar disciplinary system, and legal ethics generally.

As Deputy Attorney General for civil litigation, he oversaw matters involving workers' compensation, general civil litigation, consumer protection, utility regulation, employment law, and the civil commitment of sexually violent predators. He managed nearly 100 lawyers and staff. He appeared in trial and appellate courts on a wide variety of significant issues. He argued before the Supreme Court of Virginia, the Court of Appeals of Virginia, and the United States Court of Appeals for the Fourth Circuit. The appeals dealt with a wide range of issues, including administrative law, workers' compensation, the Virginia Birth-Related Neurological Injury Compensation Program, Fourth Amendment issues related to administrative searches of regulated industries, tort, and other constitutional issues. He also was involved in the research for and drafting of formal and informal opinions for the Attorney General.

The primary focus of his litigation practice before joining the Attorney General's staff was professional liability defense work wherein he defended doctors, hospitals, nurses, lawyers, and accountants in civil negligence actions. His practice also included workers' compensation work, commercial litigation, constitutional litigation, and a very small amount of misdemeanor/traffic matters for friends, employees, and existing clients. Though his criminal law practice has been limited, Mr. Russell indicated that he stayed conversant with changes in the law in this area.

The committee's background investigation found that Mr. Russell possesses a superior intellect and is a student of the law. His present and former law partners and those who worked with him in the Attorney General's office offer high praise for his intelligence, collegiality and leadership. He is described as a team player.

Mr. Russell shared that his most satisfying legal experiences are when he is involved in trying to determine what is truly right under the law without any bias as a result of representation. He first experienced this feeling when serving as a law clerk to the Circuit Court for the City of Richmond and then again when tasked with researching and drafting opinions on behalf of the Attorney General to the wide variety of questions and issues posed. Mr. Russell believes that same type of satisfying experience would exist as a judge on the Court of Appeals.

The committee found Mr. Russell to be highly intelligent and to have the proper temperament for a position on the Court of Appeals of Virginia.

Committee Evaluation for the Court of Appeals of Virginia

QUALIFIED

VOTE

QUALIFIED

Yeas 13

Nays 3

October 22, 2014

Report of the Virginia State Bar Judicial Candidate Evaluation Committee

THE HONORABLE JOSIAH T. SHOWALTER, JR.

Seeks Appointment to: Court of Appeals of Virginia

Education:

- Virginia Polytechnic Institute and State University, B.A., 1984
- Stetson University College of Law, J.D., 1987

Law Licensure:

- Virginia, 1989

Legal Career:

- Private practice, New River Valley, 1989-99
- Commonwealth's Attorney, Montgomery County, 2000-06

Judicial Career:

- 27th Judicial Circuit Court (primary responsibility for Wythe County, Bland County, City of Radford), 2006-present (Chief Judge, 2006-08)

Legal Association/Bar/Committee/Organization/Teaching Positions/Awards:

- Member of the Advisory Committee on Rules of Court, appointed by Chief Justice Kinser, 2014-present
- Adjunct Professor, Legal Environment (Business Law), Virginia Polytechnic Institute and State University
- Judge's panel presenter at Virginia Association of Defense Attorneys, 2013
- Judge's panel presenter at Eminent Domain Legal Conference, 2013
- Virginia State Bar Association, current status Judicial
- Capital Murder Conference, 2009
- Judge's panel for Criminal CLE, Abingdon, 2008
- Judge's panel for Family Law CLE, Blacksburg, 2007
- Montgomery-Radford Bar Association, former member and vice president

Community Service:

- Member, Board of Directors for Valley Interfaith Child Care Center, 2012-13
- Member of the Frank Page Scholarship Committee, 2011-present
- Board of Directors for the Legal Aid Society of the New River Valley, 1995-2005
- Member, Board of Directors for the Christiansburg Institute, 2003-06
- Member, Board of Directors for the New River Valley ASAP, 2000-06
- Member, Board of Directors for the Weight Club, 1995-2005
- Member, Board of Directors for Montgomery County Cancer Society, 1990-95
- Commencement speaker DARE Graduates, 2001-06
- Member, Frank Page Scholarship Committee, Montgomery County Schools
- Elder, Blacksburg Presbyterian Church

Residence:

- Blacksburg, Virginia

Legal Ability

The committee concludes that Judge Showalter has a superior intellect and legal skills for the position of judge of the Court of Appeals of Virginia.

Integrity

The committee finds that Judge Showalter is a person of the highest integrity.

Temperament

The committee finds that Judge Showalter has an excellent temperament.

Impartiality

The committee finds that during his tenure on the bench, Judge Showalter has acted with appropriate impartiality and has not exhibited bias or prejudice towards or against any individuals or classes of litigants who have appeared before him.

Diligence

The committee finds that Judge Showalter has performed his duties with diligence and efficiency and anticipates that he would do so as a judge of the Court of Appeals of Virginia.

Overall Evaluation

Prior to being appointed a judge in 2006, Judge Showalter was in private practice in the New River Valley from 1989 to 1999. His practice included criminal defense in state court. He also handled real estate and domestic relations matters. He estimates that 90 percent of his trials were non-jury. He was elected the Montgomery County Commonwealth Attorney in 1999, a position he held until 2006.

The lawyers who appear before Judge Showalter have an enormous respect for him as a trial judge, pointing to his temperament, fairness, and knowledge of the law. He is described as patient and hard working with a good sense of humor.

Committee Evaluation for the Court of Appeals of Virginia

HIGHLY QUALIFIED

VOTE

QUALIFIED	Yeas	15	Nays	0	(1 abstention)
HIGHLY QUALIFIED	Yeas	14	Nays	1	(1 abstention)

Report of the Virginia State Bar Judicial Candidate Evaluation Committee

THE HONORABLE ROBERT J. SMITH

Seeks Appointment to: Court of Appeals of Virginia

Education:

- University of Illinois at Urbana-Champaign, B.A., 1974
- The John Marshall Law School, J.D., 1978

Law Licensure:

- Illinois, 1978
- Virginia, 1987
- Court of Appeals of the Armed Forces, 1978
- Army Court of Criminal Appeals, 2005

Legal Career:

- Senior Assistant Public Defender, Fairfax County, 1987-90
- Judge Advocate General's Corps, U.S. Army, 1978-2002

Judicial Career:

- Fairfax County Circuit Court, 2008-present
- Fairfax General District Court, 1990-2008
- Chief Trial Judge, United State Army Reserve, 2007-09
- Individual Augmentee to the Chief Trial Judge of the U.S. Army Judiciary, 2006-07
- Appellate Judge, U.S. Army Court of Criminal Appeals, 2005-06
- Trial Judge, U.S. Army Reserve, 2004-05
- Trial Judge to the U.S. Army First Judicial Circuit, Operation Iraqi Freedom, 2003-04
- Trial Judge, U.S. Army Reserve, 2002-03

Legal Association/Bar/Committee/Organization/Teaching Positions:

- Adjunct Professor, George Washington University Law School, 2010-present

Publications:

- Military Rule of Evidence 404(a)(1): *An Unsuccessful Attempt to Limit the Introduction of Character Evidence on the Merits*, 33 Fed. Bar News & Journal 429 (Dec. 1986), cited by the Court of Military Appeals (now The Court of Appeals for the Armed Forces) in *United States v. Court*, 24 M.J. 11 (CMA 1987)

Residence:

- Clifton, Virginia

Legal Ability

The Committee concludes that Judge Smith has the requisite intellect and legal skills for the position of judge of the Court of Appeals of Virginia.

Integrity

The committee finds that Judge Smith has the highest integrity.

Temperament

The committee finds that during his tenure on the bench, Judge Smith has exhibited excellent judicial temperament.

Impartiality

The committee finds that during his tenure on the bench, Judge Smith has acted with appropriate impartiality and has not exhibited bias or prejudice towards or against any individuals or classes of litigants who have appeared before him.

Diligence

The committee finds that Judge Smith has performed his judicial and administrative duties with diligence and efficiency.

Overall Evaluation

Judge Smith has been a judge in Virginia for twenty-four years. His service in the Commonwealth has overlapped with his military career. He was a member of the Army Judge Advocate General's Corps from 1978 until 2009 and he became a trial judge in the Army Reserve in 2002, including thirteen months on active duty during Operation Iraqi Freedom starting in 2003.

Before becoming a General District Court Judge, he worked in the Public Defender's office in Fairfax County where he appeared nearly every day in court. He estimates that 90 percent of his cases were criminal. As a JAG officer, he also represented service members in administrative hearings who were facing discharge, usually for drug-related offenses.

The committee's background investigation found that lawyers in his circuit give him very positive reviews. He does not shy away from difficult issues, is viewed as fair and diligent with strong case management skills. He is unbiased and strives to accomplish what the law requires.

Judge Smith noted that he has been in public service for forty years, and he sees a position on the Court of Appeals as the logical next step for him as a way of continuing his public service while contributing to the jurisprudence of the Commonwealth of Virginia.

Committee members were impressed with Judge Smith's presentation, intelligence and self-confidence.

Committee Evaluation for the Court of Appeals of Virginia

QUALIFIED

VOTE

QUALIFIED

Yea 16

Nay 0

October 22, 2014

Report of the Virginia State Bar Judicial Candidate Evaluation Committee

VIRGINIA B. THEISEN

Seeks Appointment to: Court of Appeals of Virginia

Education:

- College of William and Mary, B.A., 1981
- Marshall-Wythe School of Law of the College of William and Mary, J.D., 1984

Law Licensure:

- Virginia, 1984

Legal Career:

- Senior Assistant Attorney General, Criminal Litigation Section (unit leader, appeals), Office of the Attorney General of Virginia, 2006-present
- Assistant Attorney General, Criminal Litigation Section, Office of the Attorney General of Virginia, 1998-2006
- Staff Attorney (part-time), Court of Appeals of Virginia, 1994-98
- Assistant Attorney General Criminal Litigation Section, Office of the Attorney General of Virginia, 1987-94
- Assistant Commonwealth's Attorney, City of Roanoke, 1984-87

Legal Association/Bar/Committee/Organization/Teaching Positions/Awards:

- Supreme Court of Virginia Special Committee: Criminal Discovery Rules, member, 2014
- Virginia Model Jury Instruction Committee, OAG representative, non-voting member, 2012-present
- Instructor, National Association of Attorneys General: Federal *Habeas Corpus* Seminars, 2009, 2013, 2014
- Speaker, Commonwealth's Attorneys' Spring Institute, 2008

Civic Affiliations

- Bon Air Baptist Church

Publications:

- Author, *Survey of Criminal Law and Procedure*, University of Richmond Law Review, 2011
- Co-Author, *Survey of Criminal Law and Procedure*, University of Richmond Law Review, 2010

Residence:

- Chesterfield County, Virginia

Legal Ability

The Committee concludes that Ms. Theisen has a superior intellect and legal skills for the position of judge of the Court of Appeals of Virginia.

Integrity

The Committee finds that Ms. Theisen is a person of the highest integrity.

Temperament

The Committee finds that Ms. Theisen has an excellent temperament.

Impartiality

The Committee feels that Ms. Theisen would act with appropriate impartiality and not exhibit bias or prejudice towards or against any individuals.

Diligence

The Committee finds that Ms. Theisen performed her duties with diligence and efficiency and anticipates that she would do so as a judge of the Court of Appeals of Virginia.

Overall Evaluation

Ms. Theisen's work in the Attorney General's Office has afforded her a great deal of experience appearing before the Court of Appeals of Virginia and the Supreme Court of Virginia. She is Senior Assistant Attorney General in the Criminal Litigation Section of the Office of the Attorney General of Virginia. She previously worked as an Assistant Attorney General in the Criminal Litigation Section from March 1987 through July 1994 and as an Assistant Attorney General in the section from December 1998 to March 2006. She also worked as an Assistant Commonwealth's Attorney for the City of Roanoke and part time as a Staff Attorney for the Court of Appeals of Virginia.

In the Attorney General's Office, Ms. Theisen represents the Commonwealth in granted criminal appeals in the Court of Appeals and the Supreme Court of Virginia. She supervises the appellate work of six other attorneys in the section. She is responsible for handling state court extraordinary writ cases, responses to motions to vacate judgment, and petitions for actual innocence in state court, and *habeas corpus* cases in state and federal court. She reviews criminal legislation assigned for review during the legislative session and responds to legal questions from state prosecutors.

As a Staff Attorney with the Court of Appeals of Virginia (1994-98), Ms. Theisen reviewed criminal appeals at the petition stage and prepared draft denial orders for that Court's consideration. On occasion, she assisted senior judges with research and opinion drafting in granted criminal appeals. Earlier, she prosecuted criminal cases in the district and circuit courts in the City of Roanoke.

Ms. Theisen's reputation is that of a very good attorney with a good temperament, always well prepared, extremely knowledgeable and professional. She is the "go-to" person in the Attorney General's Office for prosecutors when seeking advice on appellate issues.

Her reputation was positively reflected in her interview, which demonstrated her intelligence, passion for the law and even temperament. She is confident that she would be able to handle all jurisdictional areas covered by the Court of Appeals because they are governed by many of the same principles as criminal law: statutory construction and standard of review.

Committee Evaluation for the Court of Appeals of Virginia

QUALIFIED

VOTE

QUALIFIED

Yeas 16

Nays 0

October 22, 2014