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S.C. SUPREME COURT

THE STATE OF SOUTH CAROLINA
In the Supreme Court

APPEAL FROM Dorchester County
Court of Common Pleas

Diane S. Goodstein, Circuit Court Judge

Appellate Case No. 2015-00622

The Protestant Episcopal Church in the Diocese of South Carolina, et al. .....Respondents,

v.

The Episcopal Church (a/k/a The Protestant Episcopal Church in the United States of America) and the Episcopal Church in South Carolina .....Appellants.

Amici Curiae Brief of The Honorable (retired) William T. Howell and The Honorable (retired) H. Samuel Stilwell in Opposition to Respondents' Motion to Recuse

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STATEMENT OF ISSUE

The motion to disqualify Justice Hearn should be denied because it is an overzealous reaction to an unsuccessful appeal and is unsupported by the facts and law.

STATEMENT OF THE CASE

This case arises from a dispute among the parties, including thirty-seven parishes, The Protestant Episcopal Church in the Diocese of South Carolina, and the Trustees of the Protestant Episcopal Church in South Carolina (collectively "Respondents") and The Episcopal Church a/k/a The Protestant Episcopal Church in the United States of America and the Episcopal Church in South Carolina (collectively "Appellants").

Respondents filed suit against Appellants seeking declaratory judgment and injunctive relief. The trial court found in favor of Respondents, and this Court reversed as to The Protestant Episcopal Church in the Diocese of South Carolina, and the Trustees of the Protestant Episcopal Church in South Carolina and twenty-nine of the parishes and affirmed as to eight parishes.

In response, the thirty-one Respondents that lost in the Court's decision (collectively "Movants") filed a petition for rehearing on the merits and a motion to disqualify The Honorable Kaye G. Hearn and for additional requested relief based on her disqualification. Appellants filed a return addressing both motions. This amicus brief followed, pursuant to Rule 213, SCACR, addressing only the motion to disqualify and its exhibits.

INTEREST OF AMICI CURIAE

Pursuant to Rule 213, SCACR,[1] the Honorable William T. Howell and the Honorable H. Samuel Stilwell, both retired, respectfully submit this brief as amici curiae in opposition of Respondents' motion to disqualify Associate Justice Kaye G. Hearn.

Retired Chief Judge Howell previously served as a circuit judge and chief judge of the court of appeals for more than twenty years, and then as the chief mediator for the U.S. Circuit Court of Appeals for the Fourth Court. Chief Judge Howell graduated the University of South Carolina School of Law in 1967, and he remains an active member of the South Carolina Bar.

Retired Judge Stillwell previously served as a judge on the court of appeals for more than ten years. Judge Stilwell was admitted to the South Carolina Bar in 1961 after graduating from the University of South Carolina School of Law. Judge Stilwell also served in the South Carolina Senate before being elected to the court of appeals. He is now a retired member of the South Carolina Bar.

As prominent, respected, and long-serving members of the Bench and Bar in South Carolina, they have a strong interest in ensuring the integrity of the legal system, the fair and impartial administration of justice, and the rule of law in this State. Further, retired Chief Judge Howell and retired Judge Stilwell submit this brief to offer the Court a more

[1] All procedures required under Rule 213, SCACR, have been followed. No counsel for a party authored this brief in whole or in part, and no counsel, party or any person other than the amici curie or its counsel made a monetary contribution intended to fund the preparation or submission of this brief, which was prepared by Wyche, P.A. on a pro bono basis. This brief was discussed briefly with Appellant's counsel to notify them of the undersigned counsel's intent to file.

in-depth review of the ethical and legal issues arising from Respondents' motion with the intent to provide the Court with a well-developed discussion from a broader perspectives.

Retired Chief Judge Howell and Judge Stilwell have no position or interest in the outcome of the underlying litigation.

STATEMENT OF FACTS

Respondents filed suit on January 4, 2013, against Appellants for a dispute involving church property and service marks, seeking declaratory judgment and injunctive relief. Following a lengthy bench trial, the trial court found in favor of Respondents. Specifically, the trial court held that Respondents were the rightful owners of the church property.

Appellants appealed and sought certification of this matter to this Court, which was granted. On September 23, 2015, this Court held oral arguments. On August 2, 2017, this Court rendered a decision, through five separate opinions, which reversed the trial court's ruling as to twenty-nine parishes and affirming as to eight parishes.[1] *Protestant Episcopal Church in the Diocese of S.C. v. Episcopal Church*, No. 2015-000622, 2017 WL 3274123, at *41 (S.C. Aug. 2, 2017).

In response, the thirty-one Respondents that lost in the Court's decision (hereinafter "Movants") filed a petition for rehearing. In addition, Movants, which appear to be the same thirty-one Respondents that lost, filed a motion to disqualify Justice Hearn from this matter, arguing they "presume[d]" she would disqualify herself and that she had an obligation to inform Movant's counsel of certain facts. In support of this position, Movants submitted thirty-one exhibits, including both fact and expert affidavits.

This Amici Curiae brief addresses only the motion to disqualify and is supported by both fact and expert affidavits.

[1] For the purpose of this brief, a detailed recitation of the Court's findings is unnecessary.

ARGUMENT

The motion to disqualify Justice Hearn should be denied because it is an overzealous reaction to an unsuccessful appeal and is unsupported by the facts and law.

The motion to disqualify should be denied because it is unsupported by the facts and law. As explained herein, South Carolina law requires a recusal motion to be timely, which this Court has interpreted as counsel's first opportunity after discovery of the disqualifying facts, but certainly it cannot be filed at the very last opportunity before this Court. The evidence relied on by Movants was known and discovered by Movants and their counsel no later than 2014. Thus, it must be a reflection of Movants' legal error or deliberate delay to use the motion only after an adverse decision and as a collateral attack to undermine this Court's ruling.[2] The Motion and its timing unnecessarily burdens and threatens the confidence in and integrity of this Court and our profession,

As to the merits of Movants' arguments, it does not matter when the motion was filed because the outcome is the same: no due process violation has occurred, and Justice Hearn has not violated any aspect of state law or the judicial canons. While Movants aggressively condemn Justice Hearn, their allegations do not show a constitutional violation as required for disqualification at this point. In addition, Movants have not demonstrated that her impartiality might reasonably be questioned. Without actual evidence supporting their legal arguments, Movants go to great lengths to weave a tale of bias and direct interest as harrowing justification for filing this motion, while proclaiming for themselves good faith and restoration of integrity to the process. However, Movants'

[2] Not all counsel for Respondents signed this motion, despite Movants' claim that "[u]nless otherwise specified, all Respondents are 'Movants.'" Mot. at 2. At least twelve lawyers of record for Respondents did not join in this effort.

filing casts an unwarranted shadow on a respected and unimpeachable justice with more than thirty years of public service on the bench. Movants incorrectly assert that Justice Hearn's participation in this matter is a constitutional violation and there is no evidence of bias or interest that could reasonably lead to recusal, disqualification or require disclosures.

Movants deliberately delayed filing the motion to disqualify, and it is untimely.

At the outset, this motion is untimely and thus procedurally barred. Movants' claim their delay of years in filing the motion is justified because they were entitled to presume Justice Hearn would recuse herself. Mot. at 4. This is mystifying because Movants participated in oral arguments with Justice Hearn two years ago without any objection but now complain, in part, based on a contemporaneous news article about her tough questioning during the oral arguments. Mot. Ex. 16 & 31, at 15.

It is well settled that a party is required to bring a motion to disqualify a judge. *Caperton v. A.T. Massey Coal*, Co., 556 U.S. 868, 887 (2009). The cases cited by Movant in support of their motion all involved parties filing a motion for recusal. In addition, the moving parties in those cases made their motions prior to argument, except when there was newly discovered evidence of bias. *Compare, e.g.*, *Caperton*, 556 U.S. at 873-74 (motion was made prior to filing the petition for appeal before the state supreme court); *with Aetna Life Ins. Co. v. Lavoie*, 475 U.S. 813, 820 (1986) (motion made after arguments but before a decision). There is no supporting authority for Movants to withhold a motion to recuse until after the decision by the court.

This Court has previously recognized that "timeliness is essential to any recusal motion." *Davis v. Parkview Apartments*, 409 S.C. 266, 289, 762 S.E.2d 535, 547 (2014) (citing *Duplan Corp. v. Milliken, Inc.*, 400 F. Supp. 497, 510 (D.S.C. 1975)). The Court

instructed that counsel should file a motion for recusal at the first opportunity after the discovery of disqualifying facts. *Id.* Here, Movants waited until the very last opportunity, after this Court issued an adverse decision.

Movants' counsel has been aware of the evidence used to support the motion since 2014, more than three years before filing the motion. Specifically, Movants asserted Justice Hearn's prior membership at St. Paul's Conway, her decision to leave that church and join another, and her spouse's role in the new church—all of which was known to Movants no later than April 2014. *See* Mot. Ex. 1 & 2. Movants also submitted publicly available newsletters, letters, and membership lists from before 2014 and a 2013 affidavit. *See* Mot. Ex. 3-15.[3] Other than the two expert reports based on this evidence and other assertions by Movants, the rest of the exhibits were either blogs and news articles or responses and information from discovery in this case before trial. *See* Mot. Ex. 16-31. All of this information, except the oral argument and decision by the Court, was known by or publicly available to Movants and their counsel no later than 2014—almost three years ago.

This time line is perhaps most troubling because Movants are now seeking extraordinary relief from this Court as a means to reverse an adverse ruling. Prospective recusal is not enough, according to Movants at this point, *see* Motion at 24, but that is a constraint caused by Movants' delay in filing the motion. Specifically, Movants are now demanding the extraordinary relief, including disqualification of Justice Hearn after an adverse decision and that the decision be vacated. Mot. at 13, 17, 19, 21 & 24. If Movants

[3] Note that Exhibit 6 to the Motion was printed in 2017 but adopted in 2013, *see New Mission Statement of the Episcopal Forum of SC*, eNewsletter of the EFSC (Sept. 15, 2013) (found at https://www.mynewsletterbuilder.com/email/newsletter/1411850259).

and counsel genuinely believed their current assertions, then they would have brought this motion no later than the weeks after oral argument in 2015.[4]

In sum, this motion is untimely and disregards counsel's obligation to bring a recusal motion at the first opportunity to address potential bias when prospective recusal can be effective. Moreover, it is being used as a collateral attack to usurp this Court's proceedings and ruling by requesting a new process, a new Court, and a new decision. For all these reasons, this motion should be denied.

The motion to disqualify is unsupported by facts and law.

As to the merits, there is a "presumption of honesty and integrity in those serving as adjudicators." *Withrow v. Larkin*, 421 US. 35, 47 (1975). It is well settled that most cases related to judicial disqualification do not rise to a constitutional violation of due process. *FTC v. Cement Institute*, 333 U.S. 638, 702 (1948). In fact, the U.S. Supreme Court has explained a due process violation only occurs in an extreme case. *Caperton*, 556 U.S. at 887. In South Carolina, Judge Goolsby once explained, "what every litigant has a right to expect from a judge is that he or she be fair and, to paraphrase the inscription that appears on the seal of this court, he or she [will] give the litigant his or her due, no more and no less." *Doe v. Howe*, 367 S.C. 432, 441, 626 S.E.2d 25, 29 (Ct. App. 2005).

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[4] Ethics challenges are sometimes used as a "tool for delegitimizing the opposition." *Bill Puts Ethics Spotlight on Supreme Court Justices*, NPR (August 17, 2011) (found at http://www.npr.org/2011/08/17/139646573/bill-puts-ethics-spotlight-on-supreme-court-justices). As Harvard law professor and U.S. Supreme Court historian Noah Feldman explained, "[c]riticism on ethics issues is often a proxy for political disapproval with how you expect a justice to vote." By asserting ethical criticism, it allows a party or counsel to go beyond asserting a justice has "'a bad interpretation' and 'switch the conversation in a way that can sometimes be politically powerful.'" *Id.* The purpose of which, according to NYU law professor and author of a leading text on legal ethics Stephen Gillers, "is to undermine the credibility of the decision, whichever way it goes." *Id.*

At its core, due process guarantees "an absence of actual bias" on the part of the judge. *In re Murchinson*, 349 U.S. 133, 136 (1955). The U.S. Supreme Court established an objective standard to determine whether potential bias, which almost always exists, violates due process, which cannot be allowed. This standard has been defined as whether "the average judge in his position is likely to be neutral or whether [it] is an unconstitutional potential for bias." *Caperton*, 556 U.S. at 881. "The decision whether a judge's impartiality can 'reasonably be questioned' is to be made in light of the facts as they existed, and not as they were surmised or reported." *Cheney v. U.S. Dist. Court for D.C.*, 541 U.S. 913, 914 (2004) (Scalia, J., mem.); *see also Microsoft Corp. v. U.S.*, 530 U.S. 1301, 1302 (2000) (Rehnquist, C.J., mem.).

Significantly, the U.S. Supreme Court has consistently held that potential bias and prejudice in and of itself cannot rise to a due process violation. *Lavoie*, 475 U.S. at 820; *Tumey*, 273 U.S. at 876. This is not unexpected since every case has the potential to invite a litany of claimed bias including: "friendship with a party or lawyer, prior employment, experience, membership in clubs or associations, prior speeches, writings, religious affiliation, and countless other consideration." *Caperton*, 556 U.S. at 892 (Thomas, J., dissenting). These potential biases are not sufficient for a due process violation. *Doe*, 367 S.C. at 441, 626 S.E.2d at 29 ("It is not enough for a party to allege bias; a party seeking disqualification of a judge must show some evidence of bias or prejudice.").

Because of this, courts have traditionally looked to the legislature to enact recusal statutes for judges. South Carolina has done this. *See* S.C. Const. art. V, § 19 ("The General Assembly shall specify the grounds for disqualification of Justices and judges to site on certain cases."); S.C. Code Ann. § 14-3-50 ("[N]o justice shall preside in any case

or at the hearing thereof in which he may be interested or in which he may have been counsel or has presided in any inferior court."). However, the U.S. Supreme Court has held violation of such statutes is not sufficient for a due process violation. *Caperton*, 556 U.S. at 893 (Thomas, J., dissenting). A due process violation requires more than violation of state statutes on recusal and codes for judicial conduct. *Id.*

There is no due process violation.

The U.S. Supreme Court has held that due process requires recusal only when there is prior involvement with the adjudicated matter or when there is a direct interest, typically financial. In *Williams v. Pennsylvania*, the Court found the participation of Pennsylvania Supreme Court's Chief Justice Ronald Castille's in a PCR death penalty appeal violated due process because decades earlier he was the then-district attorney who approved the prosecution seeking the death penalty in the underlying matter. __ U.S. __, 136 S. Ct. 1899, 1903 (2016). Additionally, the Court has held that direct interest of financial gain or potential incentive warrants disqualification. *See Tumey*, 273 U.S. at 520 (holding a due process violation occurred when the judge's salary was contingent on conviction rates); *Ward v. Village of Monroeville*, 409 U.S. 57, 58 (1972) (finding a due process violation when a mayor also acted as a magistrate and the city's revenues were significantly subsidized from fines and costs imposed by the mayor's court because of the mayor's decisions as a magistrate, and thereby holding the mayor had a direct interest and incentive in the level of the city's revenues). In addressing direct interest, the Court has been careful to delineate between direct bias and potential bias—noting only direct bias is a due process violation.

This is also illustrated by *Lavoie*, in which the U.S. Supreme Court drew a distinction between potential bias, which does not require recusal on due process grounds, and direct bias through personal financial interest, which does. 475 U.S. at 813. There, Alabama Supreme Court Justice T. Eric Embry was a named party in two separate cases, including a class action as the lead plaintiff, against the state government's insurance provider. These cases raised legal issues corresponding to issues in other cases pending before the Alabama Supreme Court. Despite the similar legal issues in his cases, the justice did not recuse himself and instead joined in the majority opinion.

The petitioners first sought Justice Embry's recusal on the basis that his participation violated their due process rights because he had expressed "general hostility toward the insurance companies that were dilatory in paying claims . . . in his deposition . . . ." 475 U.S. at 820. The Court rejected this argument, explaining "allegations of bias and prejudice on this general basis, however, are insufficient to establish any constitutional violation." *Id.* at 821. The petitioners also sought Justice Embry's recusal on the basis that he had a direct interest in the outcome of the cases given his analogous cases. The Court agreed, finding the majority opinion, as joined by Justice Embry, created new law in Alabama and controlled the outcome of the legal issues in his two cases. As such, the U.S. Supreme Court found Justice Embry's participation violated due process.

More significant for this case, the petitioners further challenged the participation of the entire Alabama Supreme Court claiming they all had an interest in the case because they could be class members against the state government's insurance provider. The U.S. Supreme Court held "[s]uch allegations do not constitute sufficient basis for requiring recusal under the Constitution." *Id.* at 825. The Court explained that such an expansive

view of bias could disqualify every judge in the state. Further, the U.S. Supreme Court reasoned "while these justices might conceivably have a slight pecuniary interest, we find it impossible to characterize that interest as 'direct, personal, substantial [and] pecuniary.'" *Id.* at 825-26 (citing *Ward*, 409 U.S. at 60). In sum, membership or potential membership in a group that could be affected by the outcome did not rise to the level of a constitutional violation. *Id.* at 826.

There is no direct interest in the outcome.

Here, there is no basis that Justice Hearn should be disqualified on due process grounds. Justice Hearn had no involvement with the prior adjudication of this matter and has no direct interest in this case. Movants suggest direct interest through several legally unsupported theories. For example, Movants' expert, Nathan Crystal, contends Justice Hearn and her husband have an economic interest in the subject matter because her opinion would have resulted in new church property for the church they attend. Mot. Ex. 31, at 9. Yet in the same affidavit, Crystal acknowledges in a footnote that such an event could not occur because the majority found St. Paul's, the Hearns' prior church, was one of the parishes that did not accede to the Dennis Cannon. *Id.* at 9 n.3. This assertion is also contradicted by a former senior warden of St. Paul's, Rebecca Lovelace, in her affidavit in which she states St. Anne's disclaimed any right to property years ago. Amici Exhibit 2, Affidavit of Rebecca Lovelace, ¶ 22 ("St. Anne's has never made any claim to property of St. Paul's Conway, and I clearly communicated that to Reverend Jeffords from the beginning of the dispute."). As made clear above, membership in a church cannot entitle anyone to a direct interest in the case. Moreover, the Code of Judicial Conduct defines

economic interest as ownership or a relationship as an "active participant in the affairs of a party," but the Hearns' new church is not and never has been a party to this case.

Movants attempt two other angles to show that Justice Hearn has more than a "*de minimis* interest." First, Movants suggest her interest is tied to the fact that Movants took the deposition of George Hearn in 2014[5] and that this involvement can be imputed to her. Justice Hearn's husband was not even called as a witness at trial. Thus, he cannot be a material witness in this case. Second, Movants try to construct an argument about the new church being unincorporated for some small period of time. The new church was never a party, and any speculation about whether it may be a party or may be subject to liability in another case does not show in this case that her impartiality might reasonably be questioned. The new church is not a party or even a potential beneficiary in this case, as not only admitted by Movants' expert Crystal and clarified by the Lovelace affidavit, but also the South Carolina Nonprofit Corporation Act makes it clear the Hearns could not be liable even if their new church were subject to any potential liability. S.C. Code Ann. § 33-31-204 (establishing liability under an unincorporated association against persons "purporting to act as or on behalf of a corporation, knowing there was no incorporation, . . . while so acting except for any liability to any person who knew or should have known there was no incorporation."). Mov. Ex. 2 at 37 ("Q: with respect to St. Anne's, does St. Anne's as a South Carolina Nonprofit Corporation, does it claim any ownership rights into any properties under the name St. Paul's? A: I do not know."). There is no evidence either Hearn has more than a *de minimis* interest.

[5] A review of the deposition also reveals no testimony about Justice Hearn's views or church membership. However, Crystal's affidavit cites the deposition for authority on Justice Hearn's opinion. *See* Mot. Ex. 31, at 1.

Simply, Movants have not shown any evidence of a potential interest in this case that would support that her impartiality might reasonably be questioned.

There is no basis to claim Justice Hearn is a party to this case.

Movants also contend an interest exists because Justice Hearn is a party to the case. This proposition is unsupported by the facts and law. Similar to the economic argument, membership in a church does not equate to being a party to this matter even if that church is a party. Further, mere religious affiliation (and disaffiliation) does not warrant a due process violation. *Caperton*, 556 U.S. at 892 (Thomas, J., dissenting). Additionally, Justice Hearn's husband's role within a new church, which itself is not a party and which has disclaimed any interest in the property of any other church, is not sufficient to make him a potential party. In any event, a spouse's involvement in an organization that is not a party cannot impute party status on a judge. Amici Exhibit 1, Affidavit of Expert Opinion of Dr. Gregory B. Adams, at 7 (Adams explaining "No reasonable person could believe that Justice Hearn should be condemned as biased because she sings in the choir of St. Anne's); *see Bill Puts Ethics Spotlight on Supreme Court Justices*, NPR (August 17, 2011) (found at http://www.npr.org/2011/08/17/139646573/bill-puts-ethics-spotlight-on-supreme-court-justices) ("A spouse of a judge can have a full political life and take positions on political issues and legal issue." (quoting Stephen Gillers, NYU law professor and author of a leading text on legal ethics)). Moreover, Movants' own expert, Crystal, explicitly declined to offer an opinion on this assertion. Mot. Ex. 31; Amici Ex. 1, at 7.

Similar to religious affiliation, Movants incorrectly argue Justice Hearn's membership in the Forum demonstrates bias. This cannot rise to the level of a due process violation because it is mostly just a means of getting updates about her church. As set forth

in the Lovelace affidavit, being a member of the Forum is passive and the result of just giving them your contact information. Amici Ex. 2 ¶ 16-17. The Forum is an organization to "communicate about and support the Episcopal Church." Id. ¶ 16. "Anyone can become a member of the Forum simply by entering their name and contact information and will remain a 'member' until removed." Id. ¶ 17. There are no dues for membership and the organization does not observe corporate formalities. The purpose is to provide members with updates about church business through eNewsletters. Id. Justice Hearn was also "never a leader or director of the Forum and was never an 'active participant in the Episcopal Forum as asserted by Movants' expert, Fox." Id. Membership in the Forum and receiving communications and updates about the church are well within the contemplated absence of bias for religious affiliation and membership in groups that are not parties.

Judicial action, like oral argument and opinion writing, does not support disqualification.

Movants also argue there is evidence of Justice Hearn's personal views and bias through her criticism of Bishop Lawrence in this case and her characterization of the facts in this matter. In similar fashion, Crystal suggests "her questioning at oral argument and her fervent opinion provided evidence of not only the risk of bias, but bias in fact." Mot. Ex. 31, at 15 & 9. This assertion has been held to be insufficient for disqualification. *Mallett*, 323 S.C. at 147, 473 S.E.2d at 808 ("A motion to recuse *may not be predicated on the judge's rulings in the case before him* or on rulings in a related case, nor on his demonstrated tendency to rule in any particular manner, or on a particular judicial leaning or attitude derived from his experience on the bench." (emphasis added)); *see also Grinnell Corp.*, 384 U.S. at 583 (holding a district judge was not disqualified as a result of his pre-trial comments on the depositions "any adverse attitudes" the judge "evinced towards the

defendants were based on his study of the depositions and briefs which the parties had requested him to make").[6]

Further, this suggestion of bias is illogical and contradicts the inherent purpose of oral argument and the judicial process itself. *Patel v. Patel*, 359 S.C. 515, 526, 599 S.E.2d 114, 119 (2004) ("Disqualification issues are necessarily decided on the facts of each case" and a finding of disqualification must stem from extrajudicial sources; otherwise, it would "require every judge to recuse himself upon receiving unsolicited contact from the legislature, or other potentially influential persons/organizations, or even officious intermeddlers."); *see also Mallett*, 323 S.C. at 147, 473 S.E.2d at 808 (explaining "[a] motion to recuse may not be predicated on the judge's rulings in the case before him . . .," and instead, bias must stem from an extrajudicial source). Justice Scalia once explained about oral argument:

> It isn't just an interchange between counsel and each of the individual Justices. What is going on is also to some extent an exchange of information among the Justices themselves. You hear the questions of the others and see how their minds are working, and that stimulates your own thinking. I use it, he added, to give counsel his or her best shot at meeting my major difficulty with that side of the case. "Here's what's preventing me from going along with you. If you can explain why that's wrong, you have me."

Stephen M. Shapiro, *Questions, Answers, and Prepared Remarks*, 15 Litig. 33, 33 (Spring 1989) (citing This Honorable Court (WETA 1988) (TV broadcast)).

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[6] *See also Demjanjuk v. Petrovsky*, 776 F.2d 571, 577 (6th Cir. 1985), *rev'd on other grounds* (holding the district judge was not disqualified from presiding over the appellant's extradition hearing, even though the same judge had made extensive findings in the appellant's previous denaturalization proceedings), *cert. denied*, 475 U.S. 1016 (1986); *U.S. v. Nelson*, 718 F.2d 315, 321 (9th Cir. 1983) (finding the district judge was not disqualified from presiding over a second trial even after the first trial, the judge express his opinion that the defendant was guilty).

Moreover, this Court regularly issues strong opinions, and at times addresses improper behavior, raises concerns on professional action or inaction, and other misconduct based on the evidence before it. *See, e.g.*, *Oncology & Hematology Assocs. of S.C., LLC v. S.C. D.H.E.C.*, 387 S.C. 380, 389, 692 S.E.2d 920, 925 (2010) (describing a party's discovery request as not "remotely relevant to a resolution of the issue" and abusing the process through a "scorched-earth approach;" and if the Court tailored the requests to make them proper would "would reward improper conduct").[7] Furthermore, if the *Lavoie* Court found hostility towards insurance companies, separate from the case, was not bias, then Justice Hearn's questioning and "strong" writing cannot be viewed as any evidence of interest or bias. Mot. Ex. 31, at 9; *see also Grinnell Corp.*, 384 U.S. at 583 (holding "any adverse attitudes" is insufficient).

Media coverage and opinion editorials provide no support for disqualification.

Additionally, Movants contend that media coverage, primarily through blogs, of Justice Hearn's participation in the case demonstrates bias. Nowhere does the motion cite or quote legal authority that public perception is any evidence or a proper substitute for the reasonableness test for disqualification. By contorting the objective standard for disqualification into an artificial standard of public opinion, Movants ignore a judge's key role.

A judge is required to be an independent and impartial adjudicator free from influence, which includes media in any form. A judge must make his or her own decision on the facts as applied to the law—not the public's will. *Chisom v. Roemer*, 501 U.S. 380,

[7] *See also In re Hammer*, 395 S.C. 385, 390, 718 S.E.2d 442, 445 (2011); *In re Golden*, 329 S.C. 335, 496 S.E.2d 619 (1998); *In re Lyall*, 328 S.C. 121, 492 S.E.2d 99 (1997).

400 (1991) (noting that judges must sometimes defy the popular will); *id.* at 411 (Scalia, J., dissenting) (explaining a judge's duty to represent the law often requires her "to rule against the People"). Rewarding or even recognizing special interest groups that taint the judicial process through purposeful online publications invites a decay of independence and impartiality by the court.

Additionally, a judge's decision on impartiality should not be determined through "surmised or reported" facts by others, including the public. Justice Scalia addressed a similar issue in *Cheney v. U.S. District Court for D.C.*, in which the Sierra Club sought his recusal because "a significant portion of the press, which is deemed to be the American public, demands it." 541 U.S. at 923. There, the Sierra Cub made the motion arguing his participation challenged the integrity of the system on the following basis:

> [a]s of today, 8 of the 10 newspapers with the largest circulation in the United States, 14 of the largest 20, and 20 of the 30 largest have called on Justice Scalia to step aside . . . . Of equal import, there is no counterbalance or controversy: not a single newspaper has argued against recusal. Because the American public, as reflected in the nation's newspaper editorials, has unanimously concluded that there is an appearance of favoritism, any objective observer would be compelled to conclude that Justice Scalia's impartiality has been questioned.

Id. at 923. The Sierra Club attached as exhibits the press editorials, similar to the blog posts submitted in this case by Movants. Justice Scalia explained "such a blast of largely inaccurate and uninformed opinion cannot determine the recusal question." *Id.*

It is well established that the recusal inquiry must be "made from the perspective of a reasonable observer who is informed of all the surrounding facts and circumstances." *Id.* at 924 (internal quotation omitted). Justice Scalia held his impartiality could not be reasonably questioned, and therefore, his recusal would be improper. He also explained recusal because the press said so would harm the integrity of the Court and that allowing

the press "a veto over participation of any Justice who had social contacts" would be "intolerable." *Id.* Further, such a recusal would encourage "so-called investigative journalists to suggest improprieties, and demand recusals for other inappropriate (and increasingly silly) reasons." *Id.*

Here, the positions and statements in the submitted exhibits, particularly the media sources and affidavits, as well as the interpretation of an email by Walker Humphry, are undoubtedly written through their lens of perception, and not from the perspective of an informed observer with all the surrounding facts and circumstances. For example, Lovelace had to correct and clarify Jeffords' misstatement of facts. Amici Ex. 2 ¶ 4, 7-9, 11-14. Specifically, Lovelace clarified that she brought and used the Code of Laws book to the church meeting about proxy voting, not Justice Hearn. *Id.* Lovelace also corrected Mr. Fox's factual assertion that the Justice Hearn "was an outspoken advocate for the proposition that the breakaway churches had no rights to the property the churches had occupied prior to the schism" was not true. *Id.* Lovelace explained that the out-of-state expert "must be referring to her actions as a justice in deciding this case in oral arguments and in her judicial opinion. Otherwise, there is no basis for the statement whatsoever." *Id.* Mr. Fox did not offer any facts to support his conclusory statement.

The problem with relying on "surmised or reported" facts, as Movants have done, is further demonstrated in a review of Humphrey's email. Mot. Ex. 25, at 1 (D10070). A plain reading of the email shows Humphrey's characterization of the changes in the church allegedly detailed by others, not Justice Hearn's views or account. There is no suggestion that Humphrey received Justice Hearn's view on any issue. *Id.* Rather, Justice Hearn forwarded an email from another individual and shared with Humphrey where church

services would take place. *Id.* Notably absent from this evidence, which is undoubtedly hearsay in any event, is the actual email. Movants also repeatedly reference that Humphrey was Hearn's former clerk. However, Movants did not clarify that Humphrey was not a clerk at the time of the correspondence and was practicing law in Texas. *See* http://www.willoughbyhoefer.com/attorneys/rwalker-humphrey/ ("Following his clerkship, Walker joined a national litigation firm in Texas ...."). Further, they failed to share that Humphrey was a member of St. Paul's in Conway, and forwarding a general update from one church member to another is not significant and should not be surprising. Amici Ex. 2 ¶ 23.

As stated by Justice Scalia, "the people must have confidence in the integrity of the Justices, and that cannot exists in a system that assumes to be corruptible by the slightest friendship or favor . . . ." *Cheney*, 541 U.S. at 928. The same must be said for religious affiliation and changing churches. Without an economic interest in a party or a family member who is a material witness or more than a *de minimis* interest through friendships and religious affiliation, a party cannot manufacture a due process violation through popular opinion and editorials or tough questions in oral arguments or strong writing in a judicial opinion. Here, there are no extraordinary circumstances of any due process violation to justify the extreme relief requested in the motion to disqualify.

There is no violation of the Canons of Judicial Conduct.

Movants also argue Justice Hearn should be disqualified based on alleged violations of the South Carolina Canons of Judicial Conduct, Rule 501, SCACR ("CJC"). Justice Hearn did not violate Canon 3E(1) or any other CJC provision. Without disqualification

under Canon 3E, remittal through disclosures under Canon 3F does not apply, as Professor Crystal acknowledges in his affidavit. Mot. Ex. 31, at 10.

Because she was not disqualified under Canon 3E(1) and was not constitutionally barred from participating in this case, Justice Hearn was ethically required by Canon 3B(1) to "hear and decide" the case. Amici Ex. 1, at 12. Canon 3B(5) requires a judge to "perform judicial duties without bias or prejudice." It is important to "accord great weight to" a judge's "assurance of his own impartiality." *Ellis v. Procter & Gamble Distrib. Co.*, 315 S.C. 283, 285, 433 S.E.2d 856, 857 (1993).

Canon 3E(1) of the CJC requires a judge to "disqualify himself or herself in a proceeding in which the judge's impartiality might reasonably be questioned." The key is whether questioning the judge's impartiality is reasonable, and reasonableness is determined objectively by a knowledgeable observer who is aware of all relevant facts surrounding the judge's participation and the claim of possible bias. Amici Ex. 1, at 6. Essential to this determination are the parties to the case and the legal issues for decision.

Canon 3E(1) requires the judge and those living in the same household not be parties or material witnesses. Neither Justice Hearn nor any of her family are parties or witnesses in this case. Their membership and choice to worship at a new church is not relevant to the decision of this case and cannot reasonably establish any lack of impartiality.

No reasonable person could believe that Justice Hearn should be condemned as biased because she sings in the choir or attends a church that is not a party. Neither could any reasonable person believe that Justice Hearn and her husband have any economic interest in the outcome that is not *de minimis*. St. Anne's is not a party to this case and has no potential liability in this case.

Canon 3E(1)(b) does not require reversal of Justice Hearn's decision that she was not required to recuse herself in this case because she has not been shown to have "a personal bias or prejudice concerning a party or a party's lawyer or personal knowledge of disputed evidentiary facts." Most significantly, the issues are solely about property ownership, and the most of the pertinent evidence is documentary. Likewise, Canon 3E(1)(c) does not require reversal of Justice Hearn's decision because she was not required to disqualify herself in this case. She and her family do not have an economic interest in the subject matter of the controversy. Canon 3E(1)(d) also does not require reversal of Justice Hearn's decision that she was not required to disqualify herself in this case. The CJC does not apply to speculation, just to facts and knowledge, and she and her husband could not directly benefit economically from the outcome of this case.

In addition, Canon 3F does not require any disclosures. Only if there were a basis for her disqualification under Canon 3E could she seek a remittal. To argue, as Movants and their experts do, that she had a duty to seek remittal and to follow the procedures outlined in Canon contradicts the plain language, namely the difference between "may" and "must"; the meaning of "shall" and "should"; and the concepts of "duty" and "right." Amici Ex. 1, at 10.

Professor Crystal makes this mistake in opining that the Commentary to Canon 3E(1) was violated by Justice Hearn not doing what the Commentary recommends. Comments do not create ethical duties of judges. The Commentary provides guidance but "is not intended as a statement of additional rules. ... When "should" or "should not" is used, the text is intended as hortatory and as a statement of what is or is not appropriate conduct but not as a binding rule under which a judge may be disciplined." Rule 501,

SCACR, Preamble. The word "should," even in the text of a Canon, does not create an ethical duty of judges. *Id.* Obviously, even though the word "should" in a Comment is only suggestive, it should be read in the context of the complete sentence in which it appears: "A judge should disclose on the record information that the judge believes the parties or their lawyers might consider relevant to the question of disqualification, even if the judge believes there is no real basis for disqualification." Commentary to Canon 3E(1). Raised by the quoted suggestion is what additional disclosures did Justice Hearn believe the Movants and their lawyers might consider relevant to the question of disqualification, and Justice Hearn was reasonable in concluding that there was no additional information, not already known to Movants, that was relevant to the resolution of the property issues in this case. Dr. Adams provided a clear and unequivocal expert opinion that she did not even fail to follow the hortatory comment about what she "should" do. Amici Ex. 1, at 10.

Movants nevertheless criticize Justice Hearn for not seeking remittal under Canon 3F, despite admitting it does not apply, and for failing to make what Movants characterize as mandatory disclosures but are not required by the CJC. Notably, in reaching this conclusion, Movants' expert Lawrence Fox opined that "as soon as the possibility arose that Justice Hearn might hear this case, she was required, unprompted, to disclose the information to counsel because the duty to disclose and the duty to recuse operate in tandem. Mot. Ex. 30, at 8. Such an opinion and reasoning is unreasonable and not required. Under Fox's theory, any justice would arguably be required to disclose any pertinent information any time he or she learns of any case with a constitutional interest, subject to immediate appealability to the Supreme Court. The CJC provides instructions and guidance for judges and litigants. Fox's suggested standard is not the law nor is it practical.

Movants fail to show any violation of the Canons by Justice Hearn. At any stage in litigation, due process requires more to disqualify a justice and vacate her issued opinion. At this late stage, only actual prejudice through extrajudicial bias could raise a question of disqualification. Movants cannot show that because the facts and circumstances do not support the motion to disqualify, or invoke an issue of significant public importance pursuant to Rule 204, SCACR.

CONCLUSION

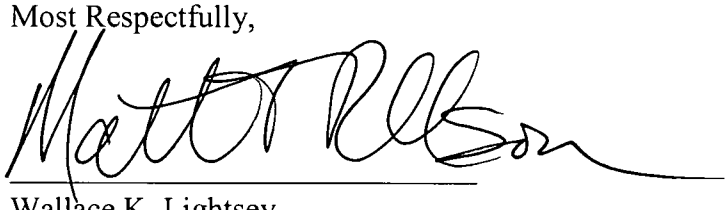
"Every litigant is entitled to have his case heard by a judge mindful of their oath. But neither the oath, the disqualification [laws], nor the practice of the former Justices of this Court guarantee a litigant that each judge will start off from dead center in his willingness or ability to reconcile the opposing arguments of counsel with his understanding of the Constitution and the law." *Laird v. Tatum*, 409 U.S. 824, 838-39 (1972) (Rehnquist, J., Mem.).

It is not a ground for disqualification that a judge is a friend, member of a church, changes membership or chooses to worship somewhere else, participates as a member of a church, or has a spouse who does any of these things. Likewise, there is a duty to fulfill the oath of office and decide matters that come before the Court when the judge is not disqualified. This is what is presented with the motion to disqualify, after Movants knew the facts and circumstances for the past two years and chose to wait until after the decision. As noted commentators have pointed out, some litigants and counsel choose to attack the credibility of the judge or the system to undermine an adverse decision.[8]

[8] *See supra*, note 4.

Here, the motion to disqualify is unsupported by the facts or law, and it is unjustified. The motion to disqualify should be denied, and the merits addressed accordingly.

Most Respectfully,



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ATTORNEYS FOR AMICI CURIAE

Exhibit 1

Affidavit of Rebecca Lovelace

THE STATE OF SOUTH CAROLINA
In the Supreme Court

APPEAL FROM Dorchester County
Court of Common Pleas

Diane S. Goodstein, Circuit Court Judge

Appellate Case No. 2015-00622

The Protestant Episcopal Church in the Diocese of South Carolina, et al. .....Respondents,

v.

The Episcopal Church (a/k/a The Protestant Episcopal Church in the United States of America) and the Episcopal Church in South Carolina .....Appellants.

AFFIDAVIT OF REBECCA LOVELACE

PERSONALLY APPEARED BEFORE ME, Rebecca Lovelace, who being fully sworn deposes and says as follows:

1. I am over eighteen years of age and make this affidavit of my own personal knowledge.

2. I was an active member of St. Paul's Episcopal Church in Conway from 1948 until 2012, serving on the vestry multiple times and as senior warden.

3. I served more than ten years as a magistrate judge for Horry County and am now retired from that position.

4. I am writing this affidavit after reading the Reverend Tripp Jeffords' affidavit and Lawrence Fox's affidavit, both filed in support of the motion to disqualify in this case.

5. I was senior warden twice while Reverend Jeffords was the priest at St. Paul's Episcopal Church in Conway, and in that role and other leadership roles, I worked very closely with him.

6. In his affidavit, Reverend Jeffords seems to suggest there is something wrong with a member of the church speaking in meetings; but for his almost eighteen years at St. Paul's Conway, he could give only three actual examples when Kaye Hearn supposedly "expressed her views on issues of parish governance, employee decisions, and the growing tension." Movants Ex. 1, Jeffords Aff. ¶ 9.

7. In the first of his three examples, Reverend Jeffords references the dispute over allowing proxy voting in vestry elections at an annual parish meeting before this case was even filed. I had called him four days before the meeting to ask if proxy voting would be allowed. He told me he did not know and would get back to me, but he did not before the meeting.

8. In preparation for the meeting, I looked at the South Carolina Nonprofit Corporation Act and determined that if a nonprofit organization's by-laws did not specifically prohibit proxy voting, then it is allowed. Because I had not heard back from Reverend Jeffords before the meeting and because I was anticipating he might not allow proxy voting at the meeting, I took a copy of the South Carolina Code book with the Nonprofit Corporation Act with me to the meeting.

9. When he announced proxy voting would not be allowed, I went to the front of the room where he was standing with the senior warden at the time and with the Code of Laws book I had brought. I put the book on the table to show them both the relevant statutory language on proxy voting in nonprofit organizations.

10. The senior warden looked at it, agreed with my plain reading of the law, and told Reverend Jeffords that proxy voting had to be allowed. Proxy voting was then allowed.

11. In his affidavit in paragraph 9, Reverend Jeffords states Kaye Hearn stood up with the law book and said "we have the rule of law." He is mistaken. It was me at that meeting with the Code of Laws, not Kaye Hearn.

12. In the second instance he gave, Reverend Jeffords references the time he "terminated a youth minister." He does not give the date or year. This occurred many years ago before the beginning of this case. I was senior warden at the time and was involved in this difficult decision.

13. Reverend Jeffords states in his affidavit that "Kaye Hearn stood up and angrily asked 'Why wasn't I consulted before this decision was made?'" This is a mischaracterization. Several parents of youth group members merely asked why the parents were not consulted in this decision. The decision was not changed because it was a confidential, personnel matter.

14. The last of the three times he says Kaye Hearn expressed her views, his affidavit says she "asked a fellow lay person . . . in a public meeting . . . 'what do you think about all of this?'" He does not say what "all of this" was about.

15. In the only other two bullet points in paragraph 9 of Reverend Jeffords' affidavit, one did not mention Kaye Hearn at all ("members of St. Anne's group expressed dissatisfaction") and the other one did not say she said anything, merely that she attended a meeting called for her church and then she attended a different church after the meeting.

16. I also want to clarify how easy, passive, and enduring it is to be a member of the Episcopal Forum of South Carolina ("the Forum" or "EFSC"). The Forum is just an organization to communicate about and support the Episcopal Church. The Forum is not a party to this case.

17. Anyone can become a member of the Forum simply by entering their name and contact information and will remain a "member" until removed. *See* http://www.episcopalforum.com/membership.html. The member sign-in states:

> There are no dues for membership in EFSC. Members agree to support the organization's programs. The Board of Directors is not elected, it is a self perpetuating board. EFSC is a 501c3 nonprofit corporation[]. Members are automatically included as subscribers to the EFSC eNewsletters.

18. The Forum provides communications from its directors to its members and make them available publicly. *See* http://www.episcopalforum.com/efsc-archive.html.

19. I do not know how to be removed as a member, and the website does not provide a way to cancel membership. There is an "Unsubscribe" button at the bottom of the emailed newsletters, but that does not remove someone as a member.

20. Kaye Hearn was never a leader or director of the Forum, and she was never an "active participant in The Episcopal Forum" as Mr. Fox incorrectly assumed in his affidavit. Movants Ex. 30, Fox Aff. 5-6.

21. I also do not know why Mr. Fox says Kaye Hearn "was an outspoken advocate for the proposition that the breakaway churches had no rights to the property the churches had occupied prior to the schism." Movants Ex. 30, Fox Aff. 6. This statement is not true, and he must be referring to her actions as a justice in deciding this case in oral arguments and in her judicial opinion. Otherwise, there is no basis for the statement whatsoever.

22. In addition, St. Anne's has never made any claim to property of St. Paul's Conway, and I clearly communicated that to Reverend Jeffords from the beginning of the dispute. Although he acknowledged this and even informed the members of his church when they were deciding whether to join this lawsuit against the Episcopal Church, Reverend Jeffords and St. Paul's nevertheless joined this lawsuit to try to protect the property. St. Paul's Conway is one of the parishes that was allowed to keep its property under the Court's decision.

23. I also know Walker Humphry, whose email was submitted by Movants in support of the motion to disqualify. Walker began attending services at St. Paul's Conway in 2010 and eventually became a member of the church. I got to know him well through his active participation at St. Paul's Conway, as well as socially, until he moved to Texas in the summer of 2012.

Further affiant sayeth not.

Rebecca Lovelace

Rebecca Lovelace

SWORN to before me this
17th day of September, 2017

Notary Public for E-17-2
My Commission Expires: _____

Exhibit 2

Affidavit of Expert Opinion of Dr. Gregory B. Adams

THE STATE SOUTH CAROLINA
In the Supreme Court

APPEAL FROM Dorchester County
Court of Common Pleas

Diane S. Goodstein, Circuit Court Judge

Appellate Case No. 2015-00622

The Protestant Episcopal Church in the Diocese of South Carolina, et al. .....Respondents,

v.

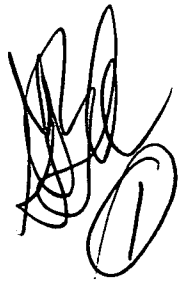
The Episcopal Church (a/k/a The Protestant Episcopal Church in the United States of America) and the Episcopal Church in South Carolina .....Appellants.

AFFIDAVIT OF EXPERT OPINION OF DR. GREGORY B. ADAMS

PERSONALLY APPEARED before me Gregory B. Adams who, being duly sworn, deposes and says that:

I. It is my expert opinion, held to a reasonable degree of professional certainty, that Respondents' Motion to Recuse the Honorable Justice Kaye G. Hearn and the associated attachments [all of which I will refer to as Movants' "Motion to Recuse"] fail to state any grounds for recusal of Justice Hearn or any of the other relief sought by Movants because

A. Justice Hearn did not violate Canon 3E(1) of the South Carolina Code of Judicial Conduct, SCACR 501 [CJC] or any other CJC provision;



B. Neither Justice Hearn nor Chief Justice Beatty nor Justice Kittredge nor Acting Justices Pleicones and Toal violated the due process rights of Movants by permitting Justice Hearn to participate in the decision of this case;

C. Because she was not disqualified under CJC Canon 3E(1) and was not constitutionally barred from participating in this case, Justice Hearn was ethically required by CJC Canon 3B(1) to "hear and decide" the case;

D. Movants consented to Justice Hearn's participation in hearing and deciding this case and thus are now estopped to object to her judicial participation, having waived any right to do so; only after the Court decided the case on August 2 did the Movants untimely object to Justice Hearn's participation;

E. Movants have utterly failed to show any prejudice due to Justice Hearn's participation in this case, which South Carolina law requires them to show in order to vacate her opinion and recuse her from the case.

II. IT IS ESSENTIAL TO CLEARLY IDENTIFY THE LEGAL ISSUES BEFORE THE COURT IN THIS CASE AND TO DISTINGUISH THEM FROM THE RELIGIOUS, BIBLICAL, DOCTRINAL, AND MORAL ISSUES THAT DIVIDE THE LAWRENCE SECT FROM THE EPISCOPAL CHURCH.

A. This case involves disputes over the ownership of property, not any of the religious, Biblical, doctrinal, and moral issues that caused the followers of Mark Lawrence to leave the Episcopal Church. This case is not about the doctrine or membership or policies of the Episcopal Church.

B. Indeed, the Constitution of the United States of America forbids the Court from deciding these and other religious issues. See *All Saints Parish Waccamaw v. The Protestant Episcopal Church in the Diocese of South Carolina*, 385 S.C. 428

at 445, 685 S.E.2d 163 at 172 (2009), quoting *Pearson v. Church of God*, 325 S.C. 45 at 52-53, 478 S.E.2d 849 at 853 (1996).

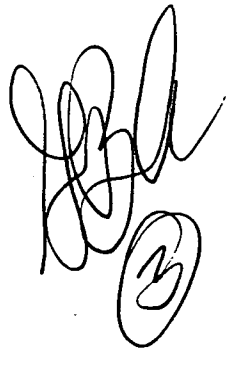
C. Instead, this case presented this Court with disputes about property that must be decided based on neutral principles of law. As this Court stated in *Pearson*

> (1) Courts may not engage in resolving disputes as to religious law, principle, doctrine, discipline, custom, or administration; (2) courts cannot avoid adjudicating rights growing out of civil law; (3) in resolving such civil law disputes, courts must accept as final and binding the decision of the highest religious judicatories as to religious law, principle, doctrine, discipline, custom, and administration.
>
> 325 S.C. 45 at 52-53, 478 S.E.2d 849 at 853 (1996).

D. Acting Justice Pleicones noted in the lead opinion of this case that then Chief Justice Toal, writing for this unanimous Court in *All Saints,* explained

> The *Pearson* rule establishes that where a civil court can completely resolve a church dispute on neutral principles of law, the First Amendment commands it to do so. Nonetheless, where a civil court is presented an issue which is a question of religious law or doctrine masquerading as a dispute over church property or corporate control, it must defer to the decisions of the proper church judicatories in so far as it concerns religious or doctrinal issues.
>
> 385 S.C. 428 at 444-45, 685 S.E.2d 163 at 172 (2009)

E. It is essential to remain focused on this crucial distinction between the legal issues presented to the Court for decision in this case and the doctrinal dispute between the Movants and the Episcopal Church. Movants fail to do so in their Motion to Recuse, as do their experts. The result is to ask the Court to violate the First Amendment to the U.S. Constitution by exceeding the limits of the neutral-principles-of-law restriction.



III. JUSTICE HEARN DID NOT VIOLATE THE SOUTH CAROLINA CODE OF JUDICIAL CONDUCT, INCLUDING CANON 3E(1).

A. Canon 3B(5) of the SC CJC requires a judge to "perform judicial duties without bias or prejudice."

B. Every single judge is confronted on a regular basis with cases in which the judge knows one or more of the parties or the judge knows one or more of the lawyers. The judge may personally like one or more of the parties or may dislike them. The judge may be friends – or even close friends – with or a former classmate of one or more of the lawyers or may have an unpleasant personal relationship with one of them. And yet, in every one of these situations the judge has to search his or her own mind, his or her own heart, and answer the question that only he or she can answer: Can I be fair and impartial? Can I decide this case solely on the basis of the law and the facts established by the evidence, without being influenced by bias or prejudice? Or should I step aside because of my bias or prejudice? This case is no different than all of those cases in which judges – trial judges, appellate judges, supreme court justices, federal or state – have to ask themselves those probing questions that only they can know the answer to.

C. There is no evidence that Justice Hearn did not ask herself those searching questions. There is no evidence that she did not answer those questions, "Yes, I can be impartial and unbiased in deciding the legal issues of this case on the basis of neutral principles of the law and apply them to the facts as established by the evidence."

D. Indeed, reading Justice Hearn's opinion in this case, concurred in by Acting Justice (and former Chief Justice) Pleicones (who has not been accused of being a "loyal Episcopalian" and whose recusal has not been sought directly) together with Justice Pleicones's opinion in this case, concurred in by Justice Hearn, evidences a careful, thoughtful, judicious application of neutral principles of law applied to the facts established by the evidence. As Acting Justice (and former Chief Justice) Toal states in her opinion in this case

> [O]ur Court is sharply divided in our opinions about this matter. These divisions are the result of sincerely held views about the law, but we are united in our deep respect for each other's views and the sincerity which informs our opinions. The various writings are powerfully written and deeply researched. I am regretful that I cannot join my colleagues in the majority [Chief Justice Beatty, Justice Hearn, and Acting Justice Pleicones] whose legal ability I respect so highly.
>
> Opinion No. 27731, Shearouse Advance Sheet No. 29, August 2, 2017 at 63.

Although dissenting from the opinions of Justice Hearn and Acting Justice Pleicones and disagreeing with their conclusions, Acting Justice Toal characterizes Justice Hearn as having "sincerely held views about the law" expressed in opinions that are "powerfully written and deeply researched," leading to her legal conclusions in the case, which former Chief Justice Toal believes are sincere and entitled to "deep respect," as she writes do all of the other justices.

E. It is the time-honored tradition of the courts of our state to trust our judges' integrity and to "accord great weight to" a judge's "assurance of his own impartiality." *Ellis v. Procter & Gamble Distrib. Co.*, 315 S.C. 283, 285, 433 S.E. 2d 856, 857 (1993), discussed further below in Part VII.

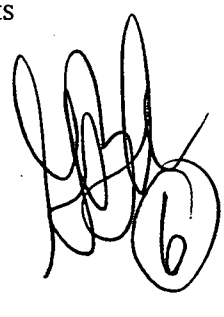
F. Canon 3E(1) of the SC CJC requires a judge to "disqualify himself or herself in a proceeding in which the judge's impartiality might reasonably be questioned." The key to this command is whether questioning the judge's impartiality is reasonable, and reasonableness is determined from the point of view of a knowledgeable observer of the judicial system who is aware of all of the relevant facts surrounding the judge's participation and the claim of possible bias.

G. Essential to this determination is consideration of the parties to the case and the legal issues they present for decision.

H. Mark Joseph Lawrence is not a party to this case, and therefore Justice Hearn's views about him are not relevant to the decision of this case and cannot establish any lack of impartiality.

I. Justice Hearn and George Hearn are not parties to this case, and their new church (St. Anne's) is not a party to this case.

J. The legal issues to be decided in this case are about the ownership of property. The legal issues do not include any of the religious, Biblical, doctrinal, and moral issues that caused some parishioners to leave the Episcopal Church. This case is not about the doctrine or membership or policies of the Episcopal Church. It is not about the formation of St. Anne's Episcopal Church in Conway, nor about the individual religious decisions of Episcopalians in Conway to leave the Episcopal Church or to join St. Anne's or assist in its formation.



i. Justice Hearn's status as a "loyal Episcopalian" and her decision, along with her husband, to leave one church and join another is not relevant to the decision of this case and cannot establish any lack of impartiality.

ii. Nor can her role, or that of her husband, George, in the formation of a new Episcopal parish church in Conway, St. Anne's, so they and other Episcopalians would have a congregation with which to worship. The absurd lengths to which the Movants go in trying to concoct an argument of bias relevant to the legal issues of this case shows not only their desperation but how frivolous their position is. No reasonable person could believe that Justice Hearn should be condemned as biased because she sings in the choir of St. Anne's. Neither could any reasonable person believe that Justice Hearn and her husband are parties in this litigation or have a financial interest in the outcome that is not *de minimis* because St. Anne's was not incorporated until April 1, 2013. St. Anne's is not a party to this case. St. Anne's has no potential liability due to this case – neither prior to nor after April 1, 2013.

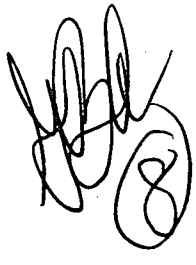
K. Canon 3E(1)(a) of the SC CJC does not require reversal of Justice Hearn's decision that she was not required to disqualify herself in this case because, for the many reasons I have given in this affidavit, her impartiality could not reasonably be questioned by anyone who understands the judicial process, especially the appellate process before the South Carolina Supreme Court, a collegial, five-member court, and who understands the limited issues to be decided in this case.

i. Movants apparently understood that there were no grounds for disqualification of Justice Hearn because, although they were fully informed of her religious beliefs and history, they chose not to move for her recusal until after this Honorable Court handed down its decision, which Movants must have found disappointing.

ii. Acting Justice Toal has expressed her unqualified confidence in the integrity and impartiality of Justice Hearn, noting that all of the other Justices share her view.

iii. The opinions of bloggers, commentators, and spectators do not establish the bias or lack of impartiality of a judge, and that is even more true when, as in this case, those public opinions are focused on and driven by the religious differences of opinion about Biblical, doctrinal, and moral issues that are excluded from consideration in deciding the disputed property issues under neutral principles of law.

L. Canon 3E(1)(b) of the SC CJC does not require reversal of Justice Hearn's decision that she was not required to disqualify herself in this case because, as I have demonstrated throughout this Affidavit of Expert Opinion, she has not been shown to have "a personal bias or prejudice concerning a party or a party's lawyer or personal knowledge of disputed evidentiary facts." Most significantly, the issues are solely about property ownership under neutral principles of law, and most of the important evidence is documentary. The "he said, she said" testimony is primarily about issues constitutionally removed from the Court's consideration and therefore not relevant.



M. Canon 3E(1)(c) of the SC CJC does not require reversal of Justice Hearn's decision that she was not required to disqualify herself in this case. She and her family do not have an economic interest in the subject matter of the controversy. No one knows what the Episcopal Church would do with any of the disputed property, but as Movants concede, St. Anne's will not benefit from the Court's decision. In any event, Justice Hearn and her husband could not personally and directly benefit economically from the outcome of this case.

N. Canon 3E(1)(d) of the SC CJC does not require reversal of Justice Hearn's decision that she was not required to disqualify herself in this case.

i. Neither Justice Hearn nor her husband or any family member is a party to this case or an officer, director, or trustee of a party: St. Anne's Episcopal Church in Conway is not a party.

ii. Neither Justice Hearn nor her husband or any family member is a lawyer in this case.

iii. Neither Justice Hearn nor her husband or any family member has a more than *de minimis* interest that could be substantially affected by the outcome in this case. See Paragraph III.M. above.

iv. Neither Justice Hearn nor her husband or any family member is a material witness in this case. Although George Hearn was deposed by Movants on April 11, 2014, he was not called to testify at trial. The Movants decided he was not a material witness. Indeed, he was not a witness at all. The trial was over before the appeal was taken. When the

case first came into the jurisdiction of this Honorable Court, Justice Hearn and Movants knew that her husband would not be a witness.

O. Canon 3F of the SC CJC does not require reversal of Justice Hearn's decision that she was not required to disqualify herself in this case, because there was (and is) no basis for her disqualification under Canon 3E and she did not seek a remittal. To argue, as Movants and their experts do, that she had a duty to seek remittal and to follow the procedures outlined in Canon 3F is absurd; it reflects the kind of confusion that law professors seek to correct in their students by the second week of classes, the confusion between "may" and "must"; the meaning of "shall" and "should"; the concepts of "duty" and "right."

P. Mr. Crystal makes this same basic mistake in opining that the Commentary to CJC Canon 3E(1) was violated by Justice Hearn not doing what the Commentary recommends.

i. Comments do not create ethical duties of judges.

> The Commentary, by explanation and example, provides guidance with respect to the purpose and meaning of the Canons and Sections. **The Commentary is not intended as a statement of additional rules.** When the text uses "shall" or "shall not," it is intended to impose binding obligations the violation of which can result in disciplinary action. **When "should" or "should not" is used, the text is intended as hortatory and as a statement of what is or is not appropriate conduct but not as a binding rule under which a judge may be disciplined.**
>
> Preamble, SC CJC (emphasis added)

ii. The word "should," even in the text of a Canon or Section of the CJC, does not create an ethical duty of judges. *Id.*

iii. Obviously, even though the word "should" in a Comment is only suggestive, it should be read in the context of the complete sentence in which it appears: "A judge should disclose on the record information that the judge believes the parties or their lawyers might consider relevant to the question of disqualification, even if the judge believes there is no real basis for disqualification." Commentary to CJC Canon 3E(1). Raised by the quoted hortatory suggestion is what additional disclosures did Justice Hearn believe the Movants and their lawyers might consider relevant to the question of disqualification. First, what information was left that they didn't already know, that wasn't in the public domain? Second, was any of that information relevant to disqualification, in light of the issues presented by the case and the identity of the parties? Justice Hearn would have been reasonable in concluding that there was no additional information, not already known to Movants, that was relevant to the resolution of the property issues under neutral principles of law. It is my expert opinion that she did not even fail to follow the hortatory comment about what she "should" do.

IV. NEITHER JUSTICE HEARN NOR CHIEF JUSTICE BEATTY NOR JUSTICE KITTREDGE NOR ACTING JUSTICES PLEICONES AND TOAL VIOLATED THE DUE PROCESS RIGHTS OF MOVANTS BY PERMITTING JUSTICE HEARN TO PARTICIPATE IN THE DECISION OF THIS CASE.

A. Movants attack all of the Justices who decided this case by charging them with depriving Movants of due process by allowing Justice Hearn to participate.

B. In support of Movants' denial of due process claim, they rely on *Caperton v. A.T. Massey Coal Co.*, 556 U.S. 868, 129 S.C. 2252, 173 L.Ed.2d 1208 (2009), a case that cannot be read as having even the slightest application to the facts of this case. Movants' reliance on *Caperton* is frivolous.

C. Justice Kennedy, writing for the majority in *Caperton*, noted that "this is an exceptional case." 556 U.S. at 884, 129 S.C. at 2263. He concluded "there is a serious risk of actual bias—based on objective and reasonable perceptions—when a person with a personal stake in a particular case had **a significant and disproportionate influence in placing the judge on the case** by raising funds or directing the judge's election campaign when the case was pending or imminent." *Id.* (emphasis added).

D. Justice Hearn was not placed on this case by the Episcopal Church or anyone else associated with any of the parties in this case.

E. *Caperton* does not support a conclusion that the due process rights of Movants were affected by Justice Hearn's role in hearing and deciding this case.

V. BECAUSE SHE WAS NOT DISQUALIFIED UNDER CJC CANON 3E(1) AND WAS NOT CONSTITUTIONALLY BARRED FROM PARTICIPATING IN THIS CASE, JUSTICE HEARN WAS ETHICALLY REQUIRED BY CJC CANON 3B(1) TO "HEAR AND DECIDE" THE CASE.

A. "A judge shall hear and decide matters assigned to the judge except those in which disqualification is required." Canon 3B(1), South Carolina Code of Judicial Conduct, SCACR 501.

B. In *Simpson v. Simpson*, 377 S.C. 519, 660 S.E.2d 274 (Ct. App. 2008) the court held that there is a duty of a judge "to sit" whenever recusal is not mandated

by the Canons or other law. The Court of Appeals noted that "[t]his duty has been recognized and imposed in both state and federal courts," citing six other cases from around the country and quoting language from them: "a judge's duty to sit where not disqualified is equally as strong as the duty not to sit where disqualified"; "where the standards governing disqualification have not been met, disqualification is not optional; rather, it is prohibited"; and "the rule [is] that a judge has an equally strong duty to sit where there is no valid reason for recusal."

VI. MOVANTS' MOTION TO RECUSE IS UNTIMELY, COMING ONLY AFTER THE COURT DECIDED THE CASE ON AUGUST 2, 2017, SOME TWO YEARS AFTER MOVANTS CONSENTED TO JUSTICE HEARN'S PARTICIPATION IN HEARING AND DECIDING THIS CASE; MOVANTS ARE NOW ESTOPPED TO OBJECT TO HER JUDICIAL PARTICIPATION, HAVING WAIVED ANY RIGHT TO DO SO.

A. "Timeliness is essential to any recusal motion. To be timely, a recusal motion must be made at counsel's first opportunity after discovery of the disqualifying facts." *Duplan Corp. v. Milliken, Inc.*, 400 F. Supp. 497, 510 (D.S.C. 1975), quoted with approval and applied in *Davis v. Parkview Apartments*, 409 S.C. 266, 289, 762 S.E.2d 535, 547 (2014).

B. The essential basis of Movants' Motion to Recuse is that Justice Hearn is a "loyal Episcopalian." She was a member of an Episcopal church with a congregation divided about religious and doctrinal issues, and joined with other members of their former parish to form a new Episcopal parish where they could worship. These events occurred in 2012-2013 and were well known to many of the Movants and their members and allies at the time.

C. Movants have not identified any new information they learned since September 23, 2015 – the date of oral argument – that reasonably could have changed the material information they had relating to the recusal of Justice Hearn.

D. Movants took the deposition of George Hearn on April 11, 2014. Movants apparently believe it contains information supporting their motion, because they have attached 62 pages of the transcript as Exhibit 2 to the Motion to Recuse. However, this is all information Movants and their lawyers possessed more than seventeen months before oral argument and more than three years before Movants first requested that Justice Hearn recuse herself. I find nothing in George Hearn's deposition to show he or Justice Hearn are a party or have any interest in this case such that her impartiality might reasonably be questioned.

E. Movants rely heavily on the Affidavit of Julian "Tripp" Jeffords, a former Episcopal priest who was the Rector (priest-in-charge) of St. Paul's Episcopal Church, Conway, before and during its withdrawal from the Episcopal Church. He discusses nothing about Justice Hearn or her husband that happened after January 2013.

F. In *Davis* the party moving for recusal had known for nearly two years most, though not all, of the information upon which they based their recusal motion. Chief Justice Toal, writing for a unanimous Court[1] that included Justices Beatty, Kittredge, Hearn, and Pleicones, held the motion to be untimely,

[1] Justice Pleicones concurred with the Court's recusal ruling but dissented from the ruling on another issue.

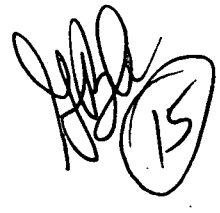
noting that it appeared "to be nothing more than a last-ditch effort to delay" and that it was of a "frivolous nature."

VII. MOVANTS HAVE UTTERLY FAILED TO SHOW ANY PREJUDICE DUE TO JUSTICE HEARN'S PARTICIPATION IN THIS CASE, WHICH SOUTH CAROLINA LAW REQUIRES THEM TO SHOW IN ORDER TO VACATE HER OPINION AND RECUSE HER FROM THE CASE.

A. "Under South Carolina law, if there is no evidence of judicial prejudice, a judge's failure to disqualify himself will not be reversed on appeal." *Patel v. Patel*, 359 S.C. 515, 524, 599 S.E.2d 114, 118 (2004). In *Patel*, the trial judge was written by powerful members of the General Assembly seeking to influence his handling of the case. Although the prohibition on *ex-parte* communications was violated and the judge refused to recuse himself, the Court held there had to be evidence of prejudice to the moving party in order to justify other judges' deciding to remove the judge from the case.

B. More recently, in *Davis v. Parkview Apartments*, 409 S.C. 266 at 284-85, 762 S.E.2d 535 at 545 (2014), this Court quoted *Patel* with approval, along with a number of other cases. One of those other cases, like *Patel*, involved holdings that even with clearly-established violations of Canon 3, on appeal prejudice must be shown by the party moving for disqualification.

C. *Eadie v. Krause*, 381 S.C. 55, 62, 671 S.E.2d 389, 392 (Ct. App. 2008) involved a motion to disqualify a trial judge who was the former law partner of the defendant lawyer. The trial judge had set a bizarrely short time limit for discovery although the case required plaintiff to take depositions in Tennessee, which could not be completed in the time allowed. The Court of Appeals held



that the plaintiff had failed to show prejudice sufficient to warrant the Court of Appeals' removing the judge from the case.

D. On the other hand, this Court has found prejudice established by the judge's ruling not being supported by the evidence in the case. *Ellis v. Procter & Gamble Distrib. Co.*, 315 S.C. 283, 285, 433 S.E.2d 856, 857 (1993).

E. Justice Hearn's opinion in this case offers no support whatsoever for a claim of prejudice. Instead, Justice Hearn's opinion in this case, concurred in by Acting Justice (and former Chief Justice) Pleicones, along with Acting Justice Pleicones's opinion in this case, concurred in by Justice Hearn, evidence a careful, thoughtful, judicious application of neutral principles of law to the facts established by the evidence. As Acting Justice (and former Chief Justice) Toal states in her opinion in this case

> [O]ur Court is sharply divided in our opinions about this matter. **These divisions are the result of sincerely held views about the law**, but **we are united in our deep respect for each other's views and the sincerity which informs our opinions. The various writings are powerfully written and deeply researched.** I am regretful that I cannot join my colleagues in the majority [Chief Justice Beatty, Justice Hearn, and Acting Justice Pleicones] whose legal ability I respect so highly.
>
> Opinion No. 27731, Shearouse Advance Sheet No. 29, August 2, 2017 at 63 (emphasis added).

Although dissenting from the opinions of Justice Hearn and Acting Justice Pleicones and disagreeing with their conclusions, Acting Justice Toal characterizes Justice Hearn as having "sincerely held views about the law" expressed in opinions that are "powerfully written and deeply researched," leading to her legal conclusions in the case, which former Chief Justice Toal

believes are sincere and entitled to "deep respect," as she writes do all of the other justices.

F. None of the justices and acting justices of this Honorable Court have seen any evidence of prejudice in Justice Hearn's participation, and the Movants have failed to show any.

G. Reversing Justice Hearn's determination that she should not recuse herself, that she could decide this case impartially, without bias, would be an unwarranted, radical rejection of the long-standing law in our state and the trust we have traditionally placed in the integrity of our judges.

VIII. My resumé, attached as Exhibit A, demonstrates why federal and state courts, including this Honorable Court and the Court of Appeals, have held that I am qualified as an expert witness on issues of legal ethics.

A. I am a tenured law professor at the University of South Carolina School of Law, where I have been teaching since 1978. My subjects of expertise include lawyers' ethics, judges' ethics, and professional responsibility.

B. At the request of the Chairman of the South Carolina Judicial Merit Selection Commission, Senator Glen F. McConnell, and the dean of the University of South Carolina School of Law, in 2003 I founded the Program on Judicial Ethics, Selection, Accountability, and Independence at the School of Law, in conjunction with the Judicial Merit Selection Commission Fellows Program. I have taught specialized courses on Judicial Ethics and the Code of Judicial Conduct since that time, as well as lecturing and advising lawyers and judges

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on those subjects. In addition, for decades I have taught thousands of Professional Responsibility students about the essentials of Judicial Ethics and the CJC. In 2008, Chief Justice Toal invited me to address her Institute for Teachers on the importance of judicial ethics and independence.

C. I have earned a J.S.D. (Doctor of Juridical Science) and an LL.M. from Columbia University, as well as my J.D. from Louisiana State University.

D. Federal and state courts in South Carolina have recognized my expertise, including this Honorable Court in *State v. Morris*, 376 S.C. 189, 656 S.E.2d 359 (2008) (holding that I am qualified as an expert witness and that my expert testimony was accurate and proper) and *Smith v. Haynsworth, Marion, McKay & Guerard*, 322 S.C. 433, 472 S.E.2d 612 (1996) (holding that I am qualified as an expert witness on issues of lawyers' duties and it was reversible error to rule otherwise), and the Court of Appeals in *Ellis v. Davidson*, 358 S.C. 509, 595 S.E.2d 817 (Ct. App. 2004) (holding it was reversible error to discount my expert opinion in a legal malpractice case and to refuse to give it efficacy). Additionally, three South Carolina Attorneys General, the South Carolina Secretary of State, and the United States Attorney for the District of South Carolina have relied upon my expertise to guide and assist them in significant criminal investigations and prosecutions, and the United States Securities and Exchange Commission has retained me as an expert witness on lawyers' duties.

IX. I hold all of the expert opinions I have expressed in this affidavit to a reasonable degree of legal certainty; I firmly believe them to be correct.

X. My expert opinions are based upon the record and findings in this case, the law of South Carolina, and the Constitution of the United States of America, as interpreted by the United States Supreme Court. This is the kind of information usually relied upon by experts in this field.

XI. I am providing this affidavit without compensation, as a public service to the Supreme Court of South Carolina and its honorable justices as well as to our state and its legal system.

Further the affiant sayeth not.

Dr. Gregory B. Adams

Sworn to and subscribed before me
this 18 th day of September 2017.

Adele Hendricks

Notary Public for South Carolina
My Commission Expires: 4/9/2023

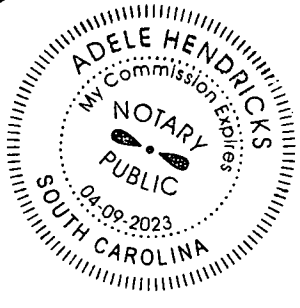

EXHIBIT A

DR. GREGORY B. ADAMS

UNIVERSITY OF SOUTH CAROLINA SCHOOL OF LAW
1525 Senate Street, Columbia, South Carolina 29208

PROFESSIONAL EXPERIENCE

Law Professor (tenured), University of South Carolina, 1978–present.
SUBJECTS TAUGHT: Professional Responsibility; Ethical Issues in Criminal Practice; Judicial Ethics; Legal Profession; Legal Technology; Contracts; Corporate Law; Business Planning; Agency, Partnership & Limited Liability Companies; Antitrust; International Business Law; European Union Law.

Associate, University of South Carolina Rule of Law Consortium (2011-present).

Founding Director, Program on Judicial Ethics, Selection, Accountability, and Independence, University of South Carolina School of Law (2003-12).

Visiting Professor of Law, Pskov Volny University, Pskov, Russia, Spring 2001.

Visiting Professor of Law, University of Southampton, Southampton, England, Fall 1989.

Visiting Professor of Law, Rutgers University, Newark, NJ, 1983-1984.

Stagiaire, Commission of the European Communities (European Union), Brussels, Belgium, 1979.

Research Associate, Institute of European Studies, University of Brussels (U.L.B.), 1979.

Visiting Scholar, Faculté de Droit, Université Catholique de Louvain, Louvain-la-Neuve, Belgium, 1978.

Assistant Professor, Southern University School of Law, 1975-1977.

Consultant, Louisiana Legislative Council, 1976-1977.

Attorney with Breazeale, Sachse & Wilson, Baton Rouge, LA, 1973-1975.
Admitted to Practice by the Louisiana Supreme Court on October 5, 1973.

EDUCATION

J.S.D. 1986
Columbia University School of Law New York, New York
Dissertation: Control of Monopoly Power in Europe and the United States

LL.M. 1979
Columbia University School of Law New York, New York
Thesis: E.E.C. and U.S. Antitrust Regulation of Monopolists' Refusals to Deal
Jervey Fellow in Foreign Law, Parker School, Columbia University, 1977-1979.

J.D. 1973
Louisiana State University Law Center Baton Rouge, LA
Order of the Coif; Louisiana Law Review; Moot Court Board; Winner, Robert Lee Tullis Moot Court Competition before the Louisiana Supreme Court.

B.S. 1977
Louisiana State University Baton Rouge, LA
Phi Kappa Phi
College of Arts & Science, Vanderbilt University Nashville, TN 1966-1968

Honors and Recognition

Outstanding Faculty Publications Award, University of South Carolina School of Law (April 2006, Book, Runner Up)
Louisiana State University Law Center Hall of Fame
Twenty Year Who's Who Honoree
Who's Who in the World
Who's Who in America
Who's Who in American Law
Who's Who in American Education
Who's Who in the South and Southwest
Who's Who of Emerging Leaders in America
Who's Who in Law Education
Dictionary of Int'l Biography (Cambridge, U.K.)

State v. Morris, 376 S.C. 189, 656 S.E.2d 359 (2008) (holding GBA qualified as an expert witness and that GBA's expert testimony was accurate and proper)

Smith v. Haynsworth, Marion, McKay & Guerard, 322 S.C. 433, 472 S.E.2d 612 (1996) (holding GBA qualified as an expert witness; reversible error to rule otherwise)

Ellis v. Davidson, 358 S.C. 509, 595 S.E.2d 817 (Ct. App., 2004) (holding it was reversible error to discount GBA's expert opinion and fail to give it efficacy)

Davis v. Hamm, 300 S.C. 284, 387 S.E.2d 676 (Ct. App., 1989) ("excellent discussion of the ramifications of these statutes" in "Litigation of Corporate Law Disputes After the Recent Amendments of the Corporate Code," in Current Issues in Civil Litigation, S.C. Bar Continuing Judicial Legal Education Seminar 1989)

Publications

South Carolina Corporate Practice Manual (2nd ed. 2005, S.C. Bar) (lead author, coauthors: Burkhard, Cleveland, Clark, Hellwig, Merline).

"Reflections on the Reactions to Proposed Rule 8.5: Consensus of Failure," 36 S. Texas Law Review 1101 (1995).

"Introductory Remarks to the Conference on the Commercialization of the Legal Profession," 45 S.C. L. Rev. 883 (1994) (with Nathan M. Crystal).

Report of the Proceedings, Conference on the Commercialization of the Legal Profession (with Nathan M. Crystal), authored: "Summary of Discussion of Frankel Paper," 45 S.C.L. Rev. 901; "Summary of Discussion of Palay/Galanter Paper," 45 S.C.L. Rev. 929; "Summary of Discussion of Martyn Paper," 45 S.C.L. Rev. 961; "Summary of Discussion of Dimitriou Paper," 45 S.C.L. Rev. 999 (1994).

"The Ethical Lawyer," occasional column in the S.C. Trial Lawyer Bulletin beginning 1994.

"Suing Corporations and Those Behind Them," 1992 S.C. Trial Lawyer Bulletin 17.

South Carolina Corporate Practice Manual (S.C. Bar, 1989) (with Cleveland, Burkhard, McWilliams).

"European and American Antitrust Regulation of Pricing by Monopolists," 18 Vanderbilt Journal of Trans. Law 1 (1985).

"Antitrust Constraints on Single-Firm Refusals to Deal by Monopolists in the European Economic Community and the United States," 20 Texas Int'l L. J. 1 (1985).

"The 1981 Revision of the South Carolina Business Corporation Act," 33 S.C. L. Rev. 405 (1982).

"Inheritance Taxation of Trusts," in 11 L. Oppenheim & S. Ingram, Louisiana Civil Law Treatise, Trusts (1977).

PUBLIC SERVICE

Member, American Bar Association Ethics and Professionalism Committee, A.B.A. Law Practice Division (2015-2018).

Member, American Bar Association Law Practice Futures Initiative, A.B.A. Law Practice Division (2015-2016).

Expert Witness, United States Securities and Exchange Commission, *U.S. S.E.C. v. Staples* (2013)

Invited Expert Witness, Judicial Merit Selection Study Committee, SC Senate (9/17/07)

Member, S.C. Bar, Professional Responsibility Committee, 1993-2012 (chair or member of numerous subcommittees, including Ethics 2000 Subcommittee; presented Ethics 2000 recommendations to S.C. Bar House of Delegates).

Member, S.C. Bar, Unauthorized Practice Committee, 1994, 2000-2003.

Member, S.C. Bar, Technology Committee, 1996-1998.

Ethics Consultant, South Carolina Association for Justice, 1994-2014.

Co-Founder and Vice-President, South Carolina Association of Ethics Counsel, 2000-present.

Expert Witness and advisor to the South Carolina Attorney General in the criminal investigation and prosecutions for securities fraud in connection with the failure of Carolina Investors and HomeGold Financial, 2003-2008.

Expert Consultant for the South Carolina Department of Natural Resources, re: piercing the corporate veil, 2000

Expert Consultant for the South Carolina Department of Health and Environmental Control, re: piercing the corporate veil to impose environmental liability under CERCLA, 1997-1999.

Reporter, South Carolina Uniform Commercial Code Article 2A (South Carolina Law Institute at the request of the South Carolina General Assembly, 1996-2001).

Expert Witness and advisor to the South Carolina Attorney General in criminal prosecution of John O'Quinn, Esq. for unauthorized practice of law and illegal solicitation, 1996-1997.

Co-Reporter, Conference on the Commercialization of the Legal Profession, Charleston, S.C., May 1993.

Expert Witness for the United States before the Federal Grand Jury investigating securities fraud, May 1993.

Member, Governing Board, Center for Law, the Legal Profession, and Public Policy, 1991-93, 1998-2000.

Member, Blue Ribbon Committee on Corporate Law, South Carolina Secretary of State, 1991-95.

Securities Law Expert for the South Carolina Attorney General in connection with the bankruptcy of Patriots Point Associates, 1989-91.

Advisor to the S.C. Deputy Securities Commissioner and the S.C. Senate Judiciary Committee on Corporate Law issues.

Co-Reporter, South Carolina Business Corporation Act of 1988 (South Carolina Law Institute for the South Carolina General Assembly, 1986-88).

Member, Louisiana State Law Institute, Civil Code Revision Committee, 1975-1977.

PRESENTATIONS

"Cyber-Ethics for Lawyers," Workers Injury Law and Advocacy Group Regional Conference, Atlanta, GA (3/27/17) (with Paula J. Frederick, Esq., General Counsel, State Bar of Georgia)
"Operational Cyber-Security for Lawyers," WFG Winter Underwriting Seminar, Columbia, SC (2/7/17)
"Cyber-Fraud, Cyber-Ethics, Cyber-Liability, Cyber-Security," S.C. Bar LEAPP Law Office Management School, Columbia, SC (2/7/17)
"Cyber-Ethics, Cyber-Security, Cyber-Liability, and Cyber-Insurance for Lawyers and Law Firms," Sixth Annual Everything You Need To Know About Ethics, S.C.A.E.C. - S.C. Bar CLE, Columbia, SC (1/13/17)
"Ethical Issues in Criminal Cases: *Slager* & *Roof*," Twenty-first Annual Charleston County Probate Court Seminar, The Mills House Wyndham Grand Hotel, Charleston, SC (12/16/16)
"Getting Clients Ethically While Promoting Our Profession," Florence County Bar (11/30/16)
"Technology for Safe and Sane Lawyering," S.C. Bar LEAPP Law Office Management School (9/29/16)
"Regulating Unauthorized Multijurisdictional Virtual Law Practice," S.C. Law School (2/22/16)
"Practice-Specific Concerns Regarding Cyber Attacks," Panel Moderator, Cyber Attacks & Civil Liability, S.C. Law Review Symposium (2/5/16)
"Highlights from the Technology and Law Seminar: Why Do I Have To Understand This Stuff?," Fifth Annual Everything You Need To Know About Ethics, S.C.A.E.C. - S.C. Bar CLE, Columbia, SC (1/15/16)
"Future Ethics for Lawyers in the Age of the Jetsons," Twentieth Annual Charleston County Probate Court Seminar, The Mills House Hotel, Charleston, SC (12/17/15)
"Ethical Management of Technology: Survival Techniques for Lawyers and Law Firms," Technology Techniques & Security for Litigators and Transactional Lawyers, S.C. Bar CLE, Columbia, SC (12/10/15)
"The Ethics of Technology in Law Practice," Technology Techniques & Security for Litigators and Transactional Lawyers, S.C. Bar CLE, Columbia, SC (12/10/15)
"Technology for Safe & Sane Lawyering," S.C. Bar LEAPP Law Office Management School (10/1/15)
"Cybersecurity Ethics: Encryption for Solo Lawyers and Small Law Firms," LPM-TECH CONFERENCE 2015, S.C. Bar Solo & Small Firm Section, Columbia, SC (9/18/05)
"Minister of Justice, Guardian of the Constitution," 14th Circuit Solicitor's Office Career Prosecutor Program and Externship, Bluffton, SC (6/1/15)
"Ethics for Criminal Defense Counsel in the Age of Social Media and the Internet," Federal Public Defender Seminar for Criminal Justice Act Attorneys (5/8/15)
"Ethics of Lawyers Working for Nonprofits & Serving on Nonprofit Boards," South Carolina Nonprofit Corporate Update, S.C. Bar CLE, Columbia, SC (2/5/15)
"Ethics of Confidentiality Online: Cybersecurity & Encryption," Fourth Annual Everything You Need To Know About Ethics, S.C.A.E.C. - S.C. Bar CLE, Columbia, SC (1/16/15)
"*Fabian v. Lindsay*: Lawyers' Liability to Intended Beneficiaries," with Professor S. Alan Medlin, Nineteenth Annual Charleston County Probate Court Seminar, The Mills House Hotel, Charleston, SC (12/12/14)
"Cybersecurity: Lawyers Safely Using Smartphones, Email, and the Cloud in the Age of International Hackers and Government Spies," S.C. Bar CLE, Columbia, SC (8/26/14)
"Ethics for Prosecutors," 14th Circuit Solicitor's Office Career Prosecutor Program and Externship, Bluffton, SC (6/30/14)
"Modification of Fees and Other Contract Questions: Rules 1.8 and 1.5," Third Annual Everything

You Need To Know About Ethics, S.C.A.E.C.-S.C. Bar CLE, Columbia, SC (1/17/14)

"Modification of Fee Agreements During the Representation: Ethical Duties, Fiduciary Duties, Contract Law," Eighteenth Annual Charleston County Probate Court Seminar, The Mills House Hotel, Charleston, SC (12/12/13)

"Legal Ethics and Social Media: How to Stay Out of Trouble and Protect Your Lawyer's Law License," Palmetto Paralegal Association Seminar, Columbia, SC (10/16/13)

"Professional Responsibility for Prosecutors," 14th Circuit Solicitor's Office Career Prosecutor Program and Externship, Bluffton, SC (May 29-30, 2013)

"War of the Roses & Roses, LLC: The Sequel - When Partners Leave the Firm," Everything You Need To Know About Ethics, S.C.A.E.C.-S.C. Bar CLE, Columbia, SC (1/18/13)

"Getting Paid, Keeping the Money, and Safeguarding Your License: How to Manage Your Cash Flow, Trust Account,and Bottom Line Under the New Rules Without Inviting a Visit from Disciplinary Authorities," Seventeenth Annual Charleston County Probate Court Seminar, The Mills House Hotel, Charleston, SC (12/6/12)

"Getting Paid, Keeping the Money, and Safeguarding Your License: How to Manage Your Cash Flow, Trust Account,and Bottom Line Under the New Rules Without Inviting a Visit from Disciplinary Authorities," S.C. Association for Justice, Auto Torts Seminar, Buckhead Ritz Carlton, Atlanta, GA (12/1/12)

"Mike Nifong - Aberrational Rogue?," U.S.C. Law School Symposium on Prosecutorial Ethics and Duties, Columbia, SC (3/16/12)

"How to Get Paid Now!," Everything You Need To Know About Ethics, S.C.A.E.C.-S.C. Bar CLE, Columbia, SC (1/13/12)

"Current Professional Responsibility Issues for Litigators," S.C. Tort Law Update, S.C. Bar CLE, U.S.C. Law School (1/6/12)

"Fiduciary Duties of Estate Planning & Probate Lawyers: General Principles and S.C. Cases," Sixteenth Annual Charleston County Probate Court Seminar, The Mills House Hotel, Charleston, SC(12/13/11)

"Advanced Ethics for Legislative Attorneys," South Carolina General Assembly, Columbia, SC (10/5/11)

"Judicial Ethics for S.C. Workers' Compensation Commissioners," S.C. Workers' Compensation Commission Continuing Judicial Ethics Seminar, Columbia, SC (11/16/10)

"Ethics for Legislative Attorneys," South Carolina General Assembly, Columbia, SC (10/6/10)

"Current Ethical Issues and Trends," York County Bar Association Ethics CLE, Panel with S.C. Supreme Court Justice Costa M. Pleicones and S.C. Disciplinary Counsel Lesley M. Coggiola, Esq., Rock Hill, SC (3/12/10)

"Lawyers in the Crosshairs: Recent South Carolina Cases of Concern to Estate Planning and Probate Lawyers," Fourteenth Annual Charleston County Probate Court Seminar, The Mills House Hotel, Charleston, SC (12/15/09)

"Judicial Ethics for S.C. Workers' Compensation Commissioners," S.C. Workers' Compensation Commission Continuing Judicial Ethics Seminar, Columbia, SC (11/17/09)

"Regulating Lawyer Behavior Through Recent South Carolina Tort Cases: Issues of Lawyer Ethics, Professionalism, and Liability," S.C. Tort Law Update, S.C. Bar CLE, U.S.C. Law School (11/13/09)

"Lawyers' Ethical Responsibilities and the Torture Memoranda," Amnesty International Panel Discussion, University of South Carolina, Columbia, SC (4/15/09)

"The 'Of Counsel' Agreement," S.C. Bar Annual Convention, Myrtle Beach, SC (1/24/09)

"Ethical Duties in Family Estate Planning," Thirteenth Annual Charleston County Probate Court Seminar, The Mills House Hotel, Charleston, SC (12/11/08)

"Teaching Professional Responsibility in U.S. Law Schools," Southeastern Ass'n of Law Schools, Ritz Carlton, Palm Beach, FL (7/31/08)

"Judicial Selection in the United States," S.C. Supreme Court Teachers Institute, Columbia, SC (6/23/08)

"Corporate Lawyers as Fiduciaries," S.C. Bar Annual Convention, Charleston, SC (1/25/08)

"My Heroes Have Always Been Lawyers and They Still Are, It Seems," Twelfth Annual Charleston County Probate Court Seminar, The Mills House Hotel, Charleston, SC (12/13/07)

"Prosecutorial Ethics: Was the Duke Lacrosse Case an Aberration or the Tip of the Iceberg?," SCTLA Annual Convention, Hilton Head Island (8/3/07).

"Malpractice Liability of Estate-Planning Lawyers," Eleventh Annual Charleston County Probate Court Seminar, The Mills House Hotel, Charleston, S.C. (12/7/06).

"Ethics for Trial Lawyers: How to Avoid Those Hidden Land Mines," S.C.T.L.A. Auto Torts Seminar XXIX, Ritz-Carlton, Buckhead, Atlanta, GA (12/2/06).

"Ethical Issues for the Sports Attorney-Agent: Lessons from *Vortex v. Ware*," International Sport and Entertainment Management Conference, Metropolitan Convention Center, Columbia, SC (11/9/06).

"Ethics in Workers Comp Practice: Negotiation," ASCCAWC Annual Convention, Grove Park Inn, Asheville, NC (11/4/06).

"Probate Judges and Lawyers: Prohibition of *Ex Parte* Communications," Fourteenth Annual Probate Bench/Bar Conference, Columbia, SC (9/15/06).

"The Future Regulation of Lawyer Advertising Under the Proposed S.C. Rules of Professional Conduct," SCTLA Annual Convention, Hilton Head Island (8/4/06).

"Free Speech and Judicial Selection: Implications of *White v. Republican Party*," Southeastern Association of Law Schools, The Breakers Hotel, Palm Beach, FL (7/20/06).

"The New South Carolina Rules of Professional Conduct," Tenth Annual Charleston County Probate Court Seminar, The Mills House Hotel, Charleston, S.C. (12/15/05).

"Ethical Use of Discovery Under the Workers' Compensation Act; Contact with Employer Witnesses; Use of Subpoenas in a Workers' Compensation Case; Frivolous Defenses: What to do About Them," ASCCAWC Annual Meeting, Grove Park Inn, Asheville, N.C. (11/4/05).

"Applying the SC Code of Judicial Conduct to Workers' Compensation Commissioners: Lessons for Lawyers Practicing Before the Commission," SCWCEA Educational Conference CLE, Marriott Myrtle Beach Resort (10/24/05).

"The New SC Rules of Professional Conduct: You Really Can't Do THAT Anymore!," SCWCEA Educational Conference, Marriott Myrtle Beach Resort (10/24/05).

"Newly Revised Frivolous Procedures Act & Other Ethical Issues," SCTLA Tort Reform Seminar, Columbia, S.C. (10/14/05).

Moderator and Coordinator, S.C. Corporate Practice Seminar, S.C. Bar CLE, U.S.C. Law School (9/30/05). Speaker: "Ethical Issues in S.C. Corporate Law for the General Practitioner and the Corporate Lawyer:

Ethical Issues Presented by Choices of Control Devices
Ethical Issues Arising from Threats of Owner Liability
The Big Ethical Question: Who Is The Client?"

"The Code of Judicial Conduct: Does It Effect How We Practice Workers' Comp?," S.C. Bar CLE, U.S.C. Law School (8/26/05).

"Ethics Seminar: The New Rules of Professional Conduct," SCTLA Annual Convention, Hilton Head Island (8/5/05).

"Ethics 2000: The New Rules of Professional Conduct — You Can't Do That Anymore!," C.L.E.

Ethics Seminar, Richland County Bar Association (11/5/04).
"Judicial Ethics Review," J.C.L.E. Ethics Seminar, S.C. Court Administration Magistrates' Training Program, Charleston, S.C. (8/18/04).
"The New S.C. Lawyers' Oath," C.L.E. Seminar, S.C. Bar, Charleston, S.C. (6/25/04).
"Judicial Ethics Review," J.C.L.E. Ethics Seminar, S.C. Court Administration Magistrates' Training Program, Columbia, S.C. (4/23/04).
"Ethics 2000 and Lawyers' Fees," C.L.E. Ethics Seminar, S.C. Bar & S.C. Association of Ethics Counsel, Columbia, S.C. (11/15/03).
"The Ethical Implications of *Brown v. Bi-Lo*," S.C. Workers Comp. Educational Ass'n Educational Conference, Kingston Plantation, Myrtle Beach, S.C. (10/20/03).
"Ethics 2000: The New Rules of Professional Conduct & Multi-Jurisdictional Practice of Law," C.L.E. Ethics Seminar, Investors Title Insurance Co. Seminars (9/17/03 Rock Hill, 9/12/03 Hilton Head).
"Ethics 2000: The New Rules of Professional Conduct — You Can't Do That Anymore!," C.L.E. Ethics Seminar, S.C.T.L.A. Convention (8/8/03).
"Political & Legal Ethics: The Pitfalls to Avoid," C.L.E. Ethics Seminar, S.C. Bar Annual Convention (Young Lawyers Division) (1/24/03).
"Recent Developments in Legal Ethics," C.L.E. Ethics Seminar, S.C. Bar & S.C. Association of Ethics Counsel (12/14/02).
"Current Ethical Issues in Real Estate Practice," C.L.E. Ethics Seminar, Security Title Insurance Company (11/8/02).
"Ethics of Attorney's Fees for Domestic Law Attorneys," C.L.E. Ethics Seminar, S.C. Bar (9/20/02).
"Discovery Abuse and Litigation Ethics," Paralegal Continuing Education Seminar, S.C.T.L.A. Convention (8/3/02).
"Discovery Abuse, Litigation Ethics, Supervision and Other Horrors," C.L.E. Ethics Seminar, S.C.T.L.A. Convention, Hilton Head, S.C. (8/2/02).
"Ethical Issues in Attorney Marketing Under the Amended Rules," C.L.E. Ethics Seminar, S.C. Bar (7/26/02).
"Ethics in the Practice of Criminal Law," C.L.E. Ethics Seminar, S.C. Bar (5/10/02).
"Professional Ethics in the Real World: Communication with Witnesses," C.L.E. Ethics Seminar, Ass'n S.C. Claimants' Attorneys for Workers Comp. (5/3/02).
"Lawyers and Paralegals Practicing Law When and Where They Shouldn't," C.L.E. Ethics Seminar, S.C. Bar and South Carolina Ass'n of Ethics Counsel (12/15/01).
"Proposed Disclosure Rule and Goods Funds Statute in South Carolina,"C.L.E. Ethics Seminar, S.C. Bar (8/17/01).
"Recent Developments in Ethics and Professional Responsibility," C.L.E. Ethics Seminar, S.C.T.L.A. Convention (8/3/01).
"Ethical Perils for Family Practitioners: Keeping Your License and Keeping Your Practice," C.L.E. Ethics Seminar, S.C. Bar (12/2/00).
"Ethical Issues in Workers Compensation Practice," C.L.E. Ethics Seminar, S.C. Workers' Comp. Educational Ass'n, Kingston Plantation, Myrtle Beach, S.C. (10/23/00).
"The Things That Make Paralegals Indispensable: Technology and the Future of the Practice of Law," Paralegal Continuing Education Seminar, S.C.T.L.A. Convention (8/5/00).
"Recent Developments in Ethics and Professional Responsibility," C.L.E. Ethics Seminar, S.C.T.L.A. Convention (8/4/00).

"The Internet - Legal Ethics in Cyberspace: Marketing on the Web and Communicating Via Email Under the Rules of Professional Conduct and the Amended South Carolina Rules Governing Advertising," SC Defense Trial Attorney's Association & SC Claim Manager's Association CLE at Grove Park Inn, Asheville, N.C. (7/29/00).

"The Internet - Legal Ethics in Cyberspace: Marketing on the Web and Communicating Via Email Under the Rules of Professional Conduct and the Amended South Carolina Rules Governing Advertising," C.L.E. Ethics Seminar, S.C. Bar (4/28/00).

"The Responsibility of Administrative Law Judges to Control Unethical and Unprofessional Conduct by Lawyers: Ethical Prohibitions, Remedies and Sanctions," ALJ CLE Seminar, Southern States Association of Administrative Law Judges (3/17/00).

"S.C. Appellate Procedure: The New Relationship Between the Supreme Court and the Court of Appeals," Paralegal Continuing Education Seminar, Ass'n S.C. Claimant Attorneys for Workers Comp., Asheville, N.C. (1/22/00).

"Professionalism: Advertising Ethically Under the Amended S.C. Rules of Professional Conduct," C.L.E. Ethics Seminar, S.C. Bar (1/14/00).

"Multi-Jurisdictional Practice of Law: *Pro Hac Vice* Admission and Unauthorized Practice," C.L.E. Ethics Seminar, S.C. Bar (12/11/99).

"Hot Issues in Ethics: Marketing Under the Rules of Professional Conduct and the Amended South Carolina Rules Governing Advertising," C.L.E. Ethics Seminar, S.C. Bar (10/29/99).

"Ethical and Professional Responsibility Issues in Litigation: Discovery Abuse," C.L.E. Ethics Seminar, S.C. Bar and Univ. of South Carolina School of Law (12/12/98).

"Multi-Jurisdictional Practice of Law: *Pro Hac Vice* Admission and Unauthorized Practice," C.L.E. Ethics Seminar, S.C. Bar (12/8/98).

"Discovery Abuse: Bane of Professionalism? Ethical Prohibitions & Court-Ordered Sanctions," C.L.E. Ethics Seminar, S.C.T.L.A. Convention (8/14/98).

"*Hedgepath* & *McCormick* and the Ethics of Ex-Parte Communication with Treating Physicians," Workers Comp. C.L.E. Seminar, S.C.T.L.A. Convention (8/14/98).

"Legal Ethics for a Multi-State Law Firm," C.L.E. for a Major S.C. Law Firm (8/8/98).

"Prudent Ethical Conduct after *Hedgepath*," Medical Staff, McLeod Hospital, Florence, S.C. (4/6/98).

"What is the Effect of *Hedgepath* on Doctors' Duties to Workers' Comp Patients?" S.C. Workers Comp. Educational Ass'n Annual Meeting, Charleston, S.C. (2/22/98).

"Confidentiality, Privilege, and the Attorney as Witness, Gossip, or Snitch," C.L.E. Ethics Seminar, S.C. Bar and Univ. of South Carolina School of Law (1/10/98).

"Law Firm Breakups and Departing Lawyers," C.L.E. Ethics Seminar, S.C. Bar and University of South Carolina School of Law (12/13/97).

"*Hedgepath* & Lawyers' Professional Conduct: Implications in Workers' Compensation Proceedings," C.L.E. Seminar, The Association of South Carolina Claimant Attorneys, Asheville, N.C. (11/14/97).

"Ethics: Judicial Immunity for Administrative Law Judges," J.C.L.E. Seminar, Chief Administrative Law Judges Conference, Charleston, SC (11/6/97).

"*Hedgepath* and the Rules of Professional Conduct: Who Can We (and They) Talk to Now?" C.L.E. Ethics Seminar, S.C.T.L.A. Convention (8/15/97).

"Ways to Get in Trouble: Old and New," C.L.E Ethics Seminar, U.S.C. School of Law (12/7/96).

"Ethics for the Modern Lawyer on the Information Superhighway," C.L.E. Ethics Seminar, S.C.T.L.A. Convention (8/9/96).

"Mobile Lawyers and Mobile Clients," C.L.E Ethics Seminar, U.S.C. School of Law (12/95).

"Constitutional Restrictions on Regulation of Lawyer Advertising," House of Delegates, S.C. Bar(1/21/94).
"Ethical Issues Facing Law Firms," C.L.E. Seminar, University of South Carolina School of Law (1/9/93).
"Ethical Issues in Office Practice," C.L.E. Seminar, University of South Carolina School of Law (12/5/92).
"Lawyer Television Advertising: A Video Presentation," U.S.C. Law School Faculty Ethics C.L.E. (10/22/92).
"The Ethical Dilemma of Corporate Counsel," C.L.E. Seminar, Farm Credit Sys. General Counsels Conference (10/7/92).
"Lawyer Advertising–The Great Debate," Moderator, C.L.E. Ethics Seminar, S.C.T.L.A. Conv. (8/14/92).
"Civil Litigation," in Ethical Issues in Litigation, C.L.E. Seminar, University of South Carolina School of Law (1/11/92).
"Shareholders' Rights in Disputes with a Corporation and those in Control," in Planning for Business Corporations: A Guide for General Practitioners, C.L.E. Seminar (1/3/92).
"Ethical Issues in Civil Litigation," Legal Ethics and Professional Responsibility, C.L.E. Seminar (12/6/91).
"A Walk Through the New South Carolina Rules of Professional Conduct," C.L.E., U.S.C. School of Law (1/12/91).
"Corporate Litigation and Liabilities of Corporations, Directors, Officers, and Shareholders after the 1988 Revision of the South Carolina Business Corporation Act," in Current Issues in Civil Litigation, a C.J.E. Seminar (4/14/89).
"Fundamental Corporate Changes and Dissenters' Rights under the South Carolina Business Corporation Act of 1988," in The New South Carolina Corporation Act, C.L.E. Seminar (12/16/88).

Amicus Curiae Briefs Drafted

Ex Parte Strom, in re Collins Entertainment Corp. v. Columbia "20" Truck Stop, 343 S.C. 257, 539 S.E.2d 699 (2000) (establishing that attorney's duties to client continued until court granted motion relieving attorney as counsel of record).
Linder v. Insurance Claims Consultants, 348 S.C. 477, 560 S.E.2d 612 (2002) (on behalf of the S.C.Bar, clarifying scope of activities constituting the practice of law).
Brown v. Bi-Lo, 354 S.C. 436, 581 S.E.2d 836 (2003) (on behalf of the S.C. Trial Lawyers Association, protecting the confidentiality of physician-patient relationship).

University and Community Service

Parliamentarian, University of South Carolina School of Law Faculty, 2004-2007, 2008-2014.
Member, Dean Review Committee for the Dean of the College of Criminal Justice, 2003.
Member, Faculty Manual Revision Committee, Faculty Senate, University of South Carolina, 1998-1999.
Parliamentarian, University of South Carolina Faculty, 1997-2004.
Member, Steering Committee, University of South Carolina Faculty Senate, 1997-2004.
Faculty Senator, University of South Carolina, 1983-1985, 1995-1998, 2000-2003.
Faculty Advisor, ABA National Appellate Advocacy Competition Team, University of South Carolina School of Law, 1995-1996.
Faculty Advisor, ABA National Appellate Advocacy Competition Team, University of South Carolina School of Law, 1982-1983 (winner Regional Competition).
Faculty Advisor, National Moot Court Team, University of South Carolina School of Law, 1980-1981.
Committee Chairman, BSA Troop 788, St. David's Episcopal Church, Columbia, SC 1996-2003.
Scoutmaster & Founder, BSA Troop 788, St. David's Episcopal Church, Columbia, SC 1992-1996.
Assistant Scoutmaster, Committee Chairman, Committee Member, BSA Troop 388, Windsor United Methodist Church, Columbia, SC 1986-1992.
Junior Warden, Vestry, St. David's Episcopal Church, Columbia, SC 1984-1987.
Chorister, Good Shepherd Episcopal Church, Columbia, SC 1999-2004.
Chorister, St. David's Episcopal Church, Columbia, SC 1984-1998.
Chairman, Christian Education Committee, St. Michael and All Angels Episcopal Church, Columbia, SC 1981-1983.
President, Richland Northeast High School P.T.S.O., Columbia, SC 1992-1997.
Member, Richland School District Two Strategic Planning Committee, Columbia, SC 1995-96.
Member, Richland School District Two Ridge View High School Planning Committee, Columbia, SC 1993-1994.