
SOUTH CAROLINA



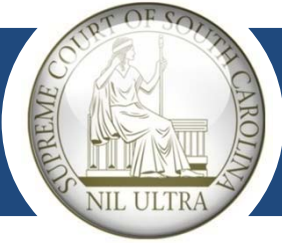
JUDICIAL DEPARTMENT

Annual Judicial Conference

August 21, 2014

by

Chief Justice Jean Hofer Toal



In Memoriam

Circuit Court Judges

Walter Bristow, Jr. (1924 – 2013)



Luke N. Brown, Jr. (1919 – 2013)



Marion Hardy Kinon (1929 – 2013)





In Memoriam

The Honorable Karen J. Williams

1951 – 2013



United States Court of Appeals for the Fourth Circuit



Welcome

| Court of Appeals | | |
|---|--|------------------|
| Seat 7 | The Honorable Stephanie Pendarvis McDonald | Charleston, SC |
| Circuit Court | | |
| 10 th Judicial Circuit, Seat 2 | The Honorable R. Scott Sprouse | Seneca, SC |
| 1 th Judicial Circuit, Seat 2 | The Honorable Daniel Dewitt Hall | York, SC |
| Family Court | | |
| 6 th Judicial Circuit, Seat 1 | The Honorable Coreen B. Khoury | Lancaster, SC |
| 11 th Judicial Circuit, Seat 1 | The Honorable W. Gregory Seigler | McCormick, SC |
| 13 th Judicial Circuit, Seat 5 | The Honorable Tarita A. Dunbar | Greenville, SC |
| 15 th Judicial Circuit, Seat 2 | The Honorable Melissa Johnson Emery | Myrtle Beach, SC |
| 16 th Judicial Circuit, Seat 1 | The Honorable Thomas H. White, IV | Union, SC |



Progress on Case Disposition

New Judges

+

Increased Use of Technology

+

**Increased Collaboration of Judges,
Clerks of Court, and Attorneys**

=

Big Improvement in Case Disposition



Family Court Benchmarks

***Goal: 80% of Pending Docket 365 Days or Less As of August 14, 2014**

| Circuit | Pending Docket 365 Days or Less |
|---|---------------------------------|
| 16 th – Union, York | 93% |
| 13 th – Greenville, Pickens | 91% |
| 14 th – Allendale, Beaufort, Colleton, Hampton, Jasper | 91% |
| 15 th – Georgetown, Horry | 90% |
| 9 th – Berkeley, Charleston | 86% |
| 7 th – Cherokee, Spartanburg | 85% |
| 2 nd – Aiken, Bamberg, Barnwell | 83% |
| 11 th – Edgefield, Lexington, McCormick, Saluda | 82% |
| 8 th – Abbeville, Greenwood, Laurens, Newberry | 81% |
| 12 th – Florence, Marion | 81% |
| 1 st – Calhoun, Dorchester, Orangeburg | 81% |
| 5 th – Kershaw, Richland | 80% |
| 6th – Chester, Fairfield, Lancaster | 80% |
| 10 th – Anderson, Oconee | 80% |
| 3 rd – Clarendon, Lee, Sumter, Williamsburg | 79% |
| 4 th – Chesterfield, Darlington, Dillon, Marlboro | 77% |



Common Pleas Benchmarks

***Goal: 80% of Pending Docket 365 Days or Less As of August 14, 2014**

| Circuit | Pending Docket 365 Days or Less |
|---|---------------------------------|
| 2 nd – Aiken, Bamberg, Barnwell | 71% |
| 10 th – Anderson, Oconee | 70% |
| 13 th – Greenville, Pickens | 70% |
| 16 th – Union, York | 69% |
| 4 th – Chesterfield, Darlington, Dillon, Marlboro | 67% |
| 11 th – Edgefield, Lexington, McCormick, Saluda | 65% |
| 1 st – Calhoun, Dorchester, Orangeburg | 64% |
| 8 th – Abbeville, Greenwood, Laurens, Newberry | 64% |
| 12 th – Florence, Marion | 64% |
| 15 th – Georgetown, Horry | 63% |
| 9 th – Berkeley, Charleston | 60% |
| 7 th - Cherokee, Spartanburg | 59% |
| 3 rd – Clarendon, Lee, Sumter, Williamsburg | 58% |
| 14 th – Allendale, Beaufort, Colleton, Hampton, Jasper | 50% |
| 5 th – Kershaw, Richland | 48% |
| 6 th – Chester, Fairfield, Lancaster | 47% |



Circuit Court Judges' Caseload

➤ **Average Caseload Per Circuit Court Judge (FY 2013- 2014)**

➤ **Filings:** 4,073

➤ **Dispositions:** 4,190

➤ **Circuit Court Judges' duties go beyond presiding over cases:**

➤ **Motion Hearings**

➤ **Drafting and reviewing orders**

➤ **Pre-trial Status Conferences**

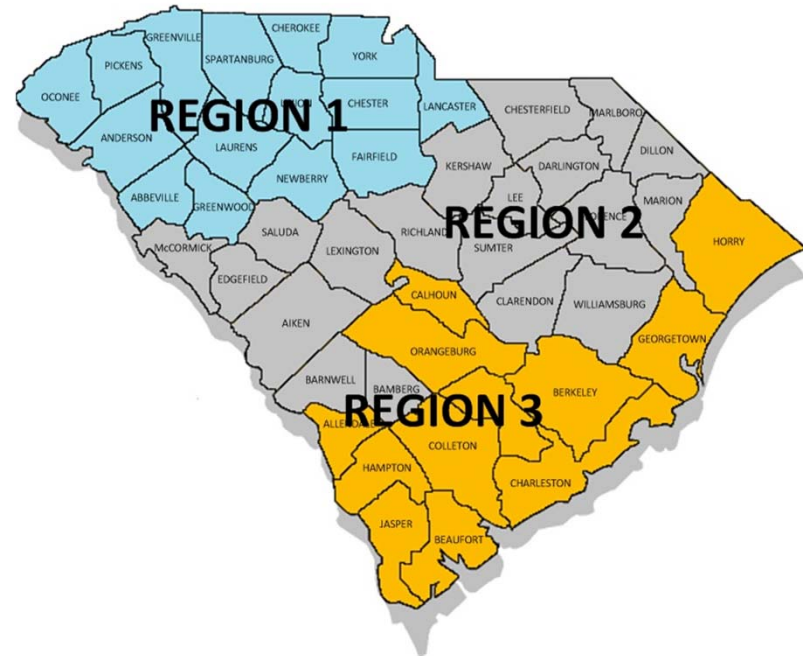
➤ **Bond Hearings**

- **Repeat Offenders**
- **Trial Delays**
- **Lack of Information**



Business Court Expansion

- Three Business Court Regions created with two judges assigned to each region and two at-large judges
- The Business Court Judges will have exclusive jurisdiction over any business court case filed within his or her region
- Presiding Judges:
 - ❖ Region 1 - R. Lawton McIntosh
Edward W. Miller
 - ❖ Region 2 - George C. James, Jr. (Buck)
Clifton Newman
 - ❖ Region 3 - Maité Murphy
Roger M. Young, Sr.
 - ❖ At-Large - J. Derham Cole
Alison R. Lee
- Purpose is to increase the efficiency of the civil court by addressing complex business matters with specialized case management procedures





General Sessions Benchmarks

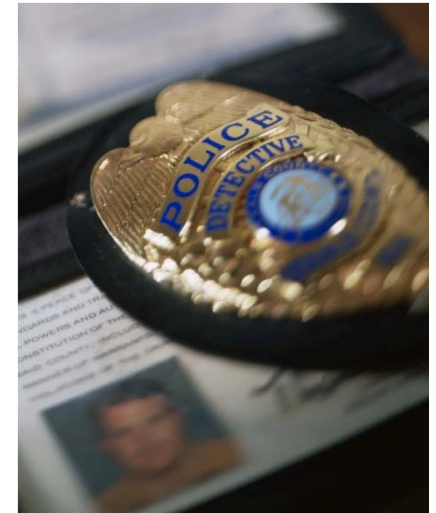
| Circuit | Pending Docket 365 Days or Less |
|---|---------------------------------|
| 16 th – Union, York | 89% |
| 10 th – Anderson, Oconee | 81% |
| 7 th – Cherokee, Spartanburg | 80% |
| 15 th – Georgetown, Horry | 78% |
| 2 nd – Aiken, Bamberg, Barnwell | 77% |
| 12 th – Florence, Marion | 76% |
| 13 th – Greenville, Pickens | 75% |
| 11 th – Edgefield, Lexington, McCormick, Saluda | 75% |
| 14 th – Allendale, Beaufort, Colleton, Hampton, Jasper | 73% |
| 1 st – Calhoun, Dorchester, Orangeburg | 72% |
| 9 th – Berkeley, Charleston | 68% |
| 5 th – Kershaw, Richland | 61% |
| 4 th – Chesterfield, Darlington, Dillon, Marlboro | 58% |
| 8 th – Abbeville, Greenwood, Laurens, Newberry | 52% |
| 3 rd – Clarendon, Lee, Sumter, Williamsburg | 48% |
| 6 th – Chester, Fairfield, Lancaster | 34% |

***Goal: 80% of Pending Docket 365 Days or Less As of August 14, 2014**



General Sessions Docket

- **Drain the Swamp**: On January 7, 2014, the Court issued an Administrative Order requiring Solicitors to reconcile their pending cases with Clerks of Courts and Public Defenders
- Clerks of Court will provide the Chief Judge for Administrative Purposes a list of all cases pending over **545 days** from the date of filing
- Clerks will conduct monthly self-audits to ensure the records provided to SCJD are accurate. Solicitors and Clerks shall also reconcile pending cases on a quarterly basis
- Cases pending for more than **545 days** shall be promptly set for disposition by the Chief Judge for Administrative Purposes, who will consult with the Solicitor regarding the best method to achieve prompt resolution and may request special terms of court





General Sessions Docket

- **The Committee led by Justice Donald Beatty is charged with making recommendations to the Court regarding the adoption of an order for the orderly administration of the General Sessions docket**
- **The Committee will use the recommendations of the Docket Management Task Force as the basis of their discussion**
- **Since the *Langford* decision, the Court has approved case management orders established in Greenville County, Lancaster County, Horry County, and Spartanburg County**
- **Court staff is currently preparing a proposed Differentiated Case Management Order for Committee review**





Draining of the Appellate Swamp

➤ Appellate Court Backlog

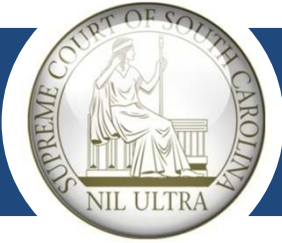
❖ Backlog of certiorari and PCR petitions in the SC Supreme Court

❖ To address the backlog:

- System developed with Supreme Court law clerks and staff attorneys to move cases more efficiently through the Court
- Oral argument on fewer cases
- Digital court reporting to decrease time to obtain a transcript
- Decrease the number and length of extensions granted

❖ Goal is to address the backlog by December 2014





Court Reporter Incentive Project

Trial Court Digital Recording Pilot Program

- May 13-14, 2013 in **Dorchester County Circuit Court** before the **Honorable Edgar Dickson**
- July 29, 2013 in **Dorchester County Family Court** before the **Honorable Ann Jones**
- August 7, 9, 2013 in **Dorchester County Family Court** before the **Honorable Jerry Vinson**

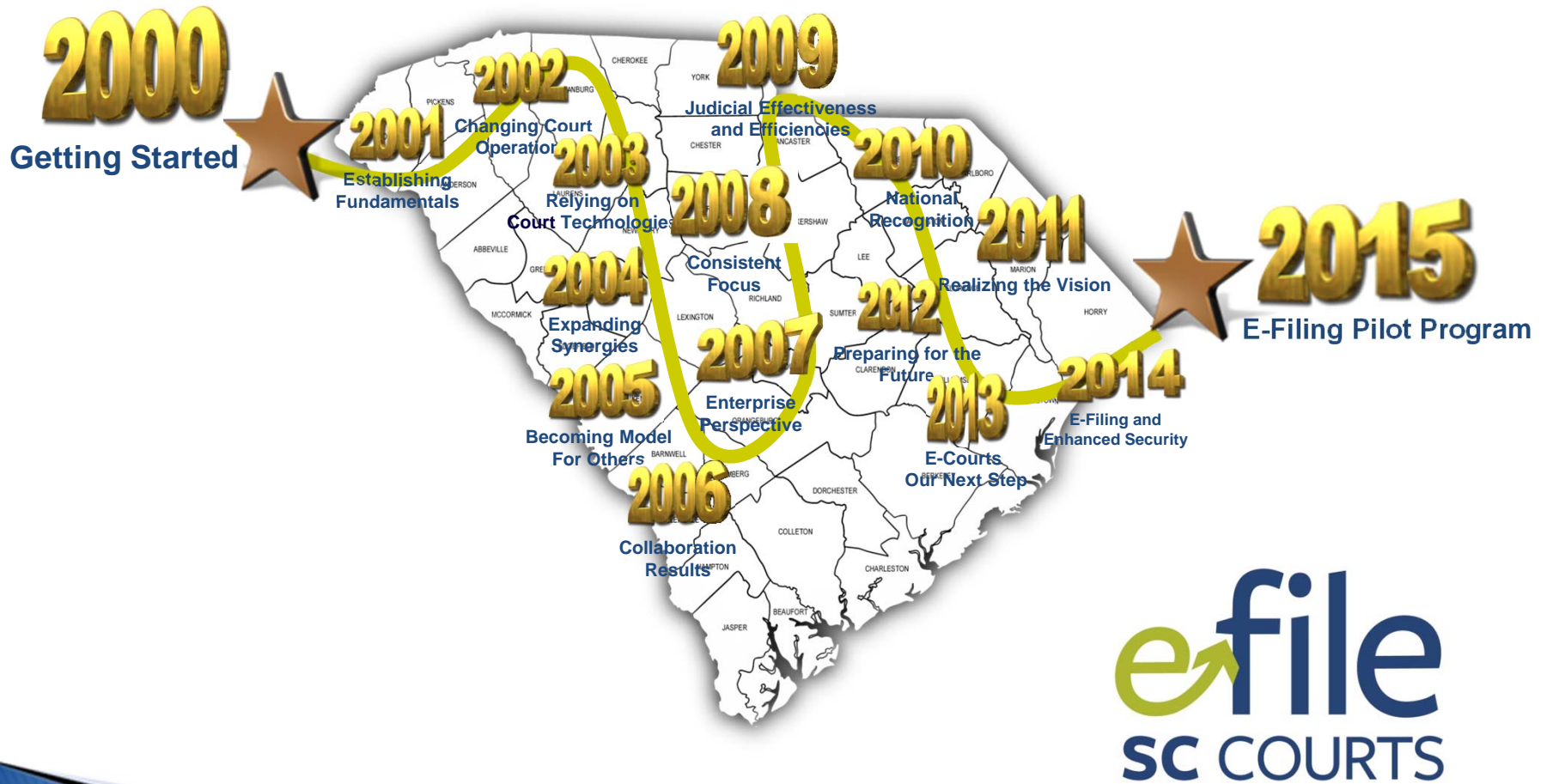


Digital Recording Process

- Funds appropriated for 15-30 Digital Recorders in courtrooms throughout the state – placement TBD
- Stakeholder Work Group to be established for planning and implementation



SCJD Technology Roadmap





Appellate Court Case Management System

➤ Appellate CMS Milestones:

- ❖ **Oral argument video recordings** are encoded, uploaded to our media server, and linked to appellate cases within 24 hours
- ❖ **Video case exhibits** are encoded and uploaded directly to the appellate cases so justices and judges can view them at their convenience
- ❖ **Public access to appellate cases** is now available for certain case types:
 - Appeals from the Court of Common Pleas (excluding PCR cases)
 - Appeals from the Court of General Sessions
 - Appeals from Administrative Tribunals
 - Certiorari proceedings relating to the decisions of the Board of State Canvassers
 - Certiorari proceedings to review decisions of the South Carolina Court of Appeals (excluding Family Court cases)
- ❖ The Supreme Court, in partnership with SCETV, will begin live **streaming of oral arguments** in September 2014

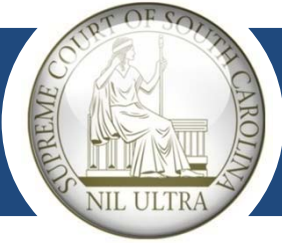




SECURITY BULLETIN

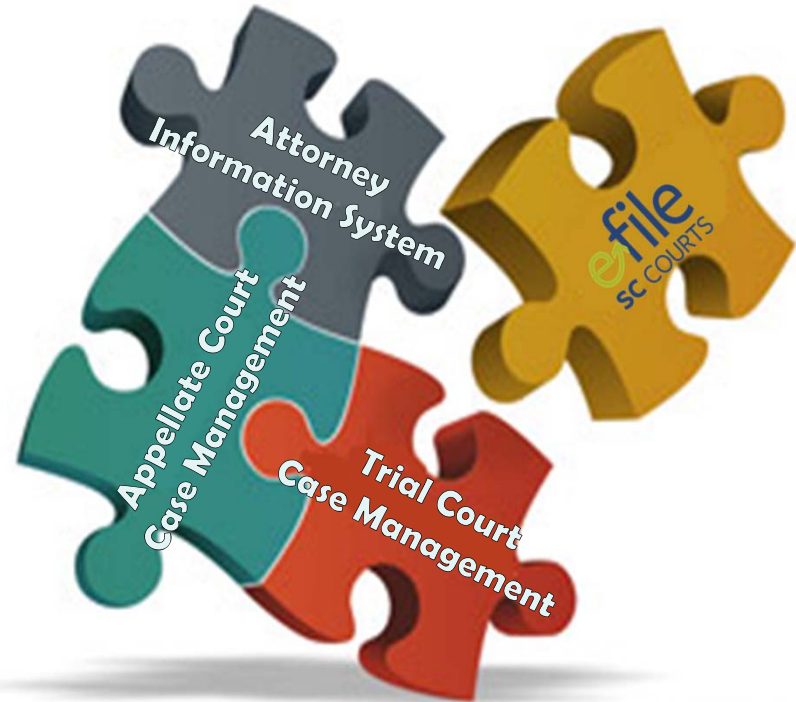
SOUTH CAROLINA JUDICIAL DEPARTMENT
Office of Information Technology
1015 Sumter Street, Suite 108
Columbia, South Carolina 29201

- SCJD continues to have **Security Awareness Training** for all employees and contract employees with a 100% participation
- Hired a Security Architect, **Joel B. Hilke, Certified Information Systems Security Professional (CISSP)**, to lead the security policy development and data and network security efforts
- SCJD has **strengthened the SC Courts' security policy:**
 1. Stronger passwords
 2. 90 day expiration of passwords
 3. Computers automatically lock after 30 minutes
 4. 24/7 data security monitoring of Internet traffic
- **Security Improvements for 2015:**
 1. Encryption of USB thumb drives for all employees
 2. Encryption of outbound SCJD emails containing sensitive data



E-Filing Update

- Rules of Civil Procedure and court policies are being revised
- Clerks of Court business processes are being updated
- All four court applications are being integrated with each other for E-Filing
- **Greenville** and **Clarendon** will be the first pilot counties followed by **Charleston**
- The pilot will begin in 2015 in Common Pleas





Family Court Case Management Update

- **Child Support Enforcement System (CSES) continues to be developed by DSS as a state project while still in litigation**
- **Family Court Case Management System continues to be part of the DSS CSES project**





Access to Justice Pro Bono Summits

- In conjunction with the **ABA's National Pro Bono Celebration**, the **SC Access to Justice Commission** and the **SC Bar** will host 4 regional Pro Bono Summits in Charleston, Greenville, Florence, and Columbia
- These regional meetings will target local bars and SC Bar leaders
- **Goals:**
 - Identify and address barriers to pro bono service
 - Identify local pro bono providers and opportunities
 - Offer local/regional pro bono support
- Each summit will host approximately 75-85 attorneys



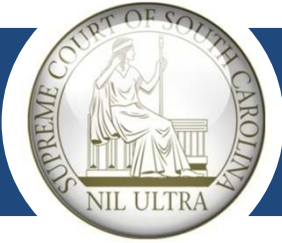
National Pro Bono Celebration
October 20 - 26, 2013



Open Courts

- The South Carolina Constitution provides that **“All courts shall be public.”** Article 1, § 9.
- An open hearing must be held before a court proceeding can be closed.
- The public right of access to court proceedings is “subject to a balancing of interests with the parties involved.” Ex parte Columbia Newspapers, Inc., 286 S.C. 116, 118, 333 S.E.2d 337, 338 (1985).
- A Judge’s decision to close a proceeding must be supported by **specific finding explaining the balancing of the interests at stake and the need for closure.** Ex parte Hearst-Argyle Television, Inc., 369 S.C. 69, 631 S.E.2d 86 (2006).





Open Courts

- **The following are not valid reasons to close a court proceeding:**
 - **Personal embarrassment**
 - **Prosecution does not want a witness to testify in open court**
 - **Inability of a judge to hear**

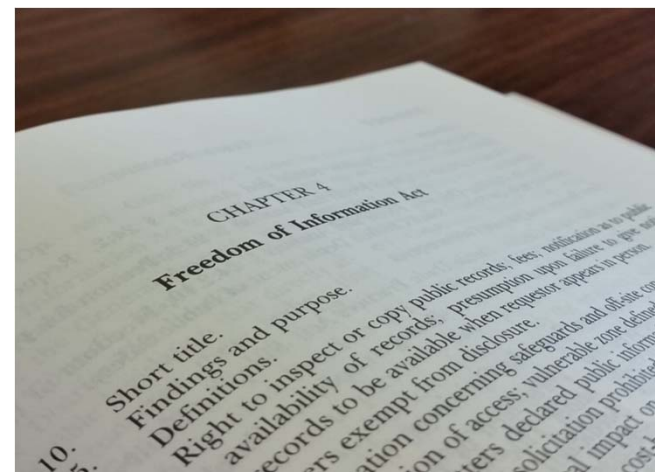
- **There should be no local rule or custom regarding open courts.**





Freedom of Information Act (FOIA)

- **FOIA addresses public access to records and information relating to the administration or operation of a government agency. S.C. Code Ann. §§ 30-4-10 to -165.**
- **A judge should not answer a FOIA request directly.**
- **If you receive a FOIA request, consult with the Chief Justice or the Office of Court Administration.**





Sealing Records

- Cannot seal court records just due to privacy concerns.
- Governed by Rule 41.1(b), SCRCP.
 - ❖ Party seeking to file documents under seal shall file and serve a Motion to Seal.
 - ❖ The **Motion to Seal** must address the following:
 - The need to ensure a **fair trial**;
 - The need for **witness cooperation**;
 - The reliance of the parties upon **expectations of confidentiality**;
 - The public or professional **significance of the lawsuit**;
 - The **perceived harm** to the parties from disclosure;
 - Why **alternatives** other than sealing the documents are **not available**; and
 - Why the **public interest**, including, but not limited to, the public health and safety, is **best served by sealing the documents**.

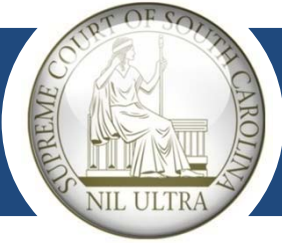




Revision of Judicial Department Salary Structure

- Salary study is being conducted by Finance and Personnel of job classifications and salary bands
- Currently revising Judicial Department salaries beginning with Administrative Staff who received a raise in their July 16 paycheck
- Administrative Staff → Law Clerks → Other SCJD Employees → Judges

****Big point of emphasis in my final budget request to the Legislature will be a salary increase for all judges****



For the Good of the Order

- **Local rules must be pre-approved**
- **Law clerks cannot be hired unless cleared by the Committee on Character and Fitness and by the Supreme Court**

