

JUDICIAL MERIT SELECTION COMMISSION
Sworn Statement To Be Included In Transcript Of Public Hearings

Administrative Law Court
(Incumbent)

Full Name: Carolyn Cason Matthews
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1. Do you plan to serve your full term if re-elected?
Yes.
2. Do you have any plans to return to private practice one day?
No.
3. Have you met the Constitutional requirements for this position regarding age, residence, and years of practice?
Yes.
4. What is your philosophy regarding *ex parte* communications? Are there circumstances under which you could envision *ex parte* communications being tolerated?

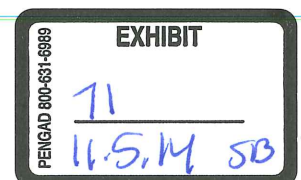
My philosophy is identical to that contained in the Code of Judicial Conduct. Canon 3B(7) prohibits *ex parte* communications. They are allowed only in very limited circumstances; for example, if there is an emergency procedural matter which will not give any party a tactical advantage, and if immediate notice and an opportunity to be heard is given to the other parties.

As an Administrative Law Judge, I instruct my Law Clerk and Staff Attorney to screen telephone calls to ensure that neither a lawyer nor a *pro se* litigant is calling me without all parties represented. *Ex parte* rulings must be communicated to all parties, and all given an opportunity to respond.

Moreover, I have a policy that I will never discuss a pending or impending case or a case which has been completely ended at the Appellate level with litigants, lawyers, legislators, the press, or interested parties. I simply inform them that I cannot do so.

5. What is your philosophy on recusal, especially in situations in which lawyer-legislators, former associates, or law partners are to appear before you?

The Canons of Judicial Conduct require recusal if there is the possibility of the appearance of impropriety or bias, or if a party requests it. My practice is to notify the attorneys and parties as soon as a case is assigned to me if there is any possibility of the appearance of impropriety or bias; for example, if there is case in which a prior client is a party. I recuse myself any time a party requests it. There is no reason for potential bias of a Judge to be an issue on appeal.



I recuse myself on all cases in which my daughter is an attorney, and all cases from her office—the Charleston County Attorney’s Office. I would also recuse myself on any cases involving my brother-in-law Cal Watson.

With respect to lawyer-legislators, former associates and former law partners, recusal is not automatically necessary under the Code of Judicial Conduct. My practice is to disclose the relationship to all parties, leave the courtroom, and give them a chance to discuss it; if they agree that they want me to hear the case, I put that agreement on the record. Because South Carolina elects judges by vote of the General Assembly, no lawyer legislator would be able to appear before any judge if automatic recusal were required. Thus, I treat lawyer-legislators as I treat all attorneys.

Since I have been a Judge for 16 years, the relationships with former clients, law partners, and former associates is very distant. However, I disclose it on the record and ask if any counsel or party has any issue with that former relationship.

6. If you disclosed something that had the appearance of bias, but you believed it would not actually prejudice your impartiality, what deference would you give a party that requested your recusal? Would you grant such a motion?

Yes, I would recuse myself if a party requested it, even if I did not believe that my impartiality was compromised.

7. What standards have you set for yourself regarding the acceptance of gifts or social hospitality?

In accordance with the Canons, I accept ordinary social hospitality. I would also accept a gift of nominal value, such as a book or a plaque as a “thank you” gift for giving a speech, for example.

8. How would you handle a situation in which you became aware of misconduct of a lawyer or of a fellow judge?

The same standards apply to misconduct by a lawyer or a judge. If I became aware of a violation of the Rules of Professional Responsibility or of the Judicial Canons, I would take appropriate action. First, I would always talk with the lawyer or judge. Depending on the misconduct, I would talk with the lawyer or judge and caution them against such conduct in the future, or refer the matter to either the Commission on Lawyer Conduct or the Commission on Judicial Standards. If a criminal matter were involved, I would refer it to state or federal prosecutors.

9. Are you affiliated with any political parties, boards or commissions that need to be re-evaluated?

No.

10. Have you engaged in any fund-raising activities with any political, social, community, or religious organizations?

No.

11. How do you handle the drafting of orders?

If the case is a routine one or one in which one party is not represented by counsel, I ask my Law Clerk or Staff Attorney to draft a routine order, and then I edit it and discuss it with my Law Clerk or Staff Attorney before signing a final order. In Department of Revenue Licensing cases, the only issue is often the proposed location. I usually prepare a draft order before the hearing, and can provide the parties a final order only a day or two after the hearing.

Complex cases, such as Environmental permitting of Certificate of Need cases can require trials ranging from a full day to several weeks. I normally ask the attorneys for each party to submit proposed orders with Findings of Fact and Conclusions of Law, as required by the Code. Depending on the quality of those proposed Orders, I incorporate portions of their Findings of Fact and Conclusions of Law in a draft order, which I review with my Law Clerk and Staff Attorney. In some instances, the proposed Orders are totally unsuitable, and none of the proposed orders are incorporated into my final order.

12. What methods do you use to ensure that you and your staff meet deadlines?

S. C. Code Ann. Section 1-23-600(H)(4) requires that ALJ's must hold a hearing on a Motion to Lift Stay within 30 days after the Motion is filed, and must issue an Order within 15 business days after the hearing. When complex Motions [e.g., Motions to Compel Discovery, Motions in Limine, or Motions for Summary Judgment] are argued, my policy is to rule from the Bench immediately after the hearing whenever possible, and to provide the parties with a written Order no later than one week after the Motion hearing.

Other deadlines are self-imposed, in order to keep my Docket moving. As soon as all briefs in the Al-Shabazz Department of Corrections cases are filed [a total of 95 days after the case is assigned to an ALJ], I review them to see if they can be dismissed on a procedural ground. For the ones which require review on the merits, I issue an order within two weeks.

I have a personal "30-day rule"; i.e. I issue all Orders within 30 days of a hearing or within 30 days after receipt of proposed orders. My docket is constantly monitored, and I and my staff are always cognizant that real people and real lawyers are waiting on my Orders. I have the lowest number of cases on my docket of any judge at the Administrative Law Court.

13. What is your philosophy on "judicial activism," and what effect should judges have in setting or promoting public policy?

The "Separation of Powers" doctrine is fundamental to our system of government. The Legislature enacts the laws; the Courts of the Judicial Branch interpret those laws, and the Executive Branch enforces them. Ascertaining legislative intent is the fundamental principle of statutory construction. Judicial activism is not within the purview of the Administrative Law Court.

14. Canon 4 allows a judge to engage in activities to improve the law, legal system, and administration of justice. What activities do you plan to undertake to further this improvement of the legal system?

I have been involved since 1978 in activities to improve the law and the administration of justice, including the S.C. Bar, the American Bar Association, The Richland County Bar, the S. C. Women Lawyers Association, the National Association of Administrative Law Judges, and the State Administrative and Regulatory Association. I have attended conferences of the Central Panel Courts. I have served on the National Board of the National Conference of Women's Bar Associations, and continue to participate in the American Bar Association.

I served as the 2012-2013 President of the S. C. Women Lawyers Association, and have been involved with the National Association of Women Lawyers and National Association of Women Judges. I spoke several times each year at "Bridge the Gap" on Administrative Law from 1999-2012. I am a frequent speaker and panelist on topic ranging from "Professionalism" and "Ethics" to "Administrative Law" before many groups and professional associations.

I attend all meetings of the Richland County Bar. I try to raise the state and national profile of the S. C. Administrative Law Court by participating in Conferences at my own expenses, such as making presentations to the SC Women Lawyers Association annual Conference, and participating in the National Conference of State Tax Judges in September, 2014 in Denver, Colorado. I am assisting in planning the S. C. Women Lawyers 2014 20th Anniversary Conference October 8-10, 2014.

15. Do you feel that the pressure of serving as a judge strains personal relationships (i.e. spouse, children, friends, or relatives)?

No.

How do you address this?

I do not expect any problems. My daughter is 35 years old, practicing law in Charleston, SC. She is married and has two children. I was a single parent for 17 years. During that time, I worked for the Supreme Court, the Attorney General, the House of Representatives Judiciary Committee, and became a partner at the state's largest law firm. I have been married for 15 years to Johnny McAllister. My three sisters and their families live in S.C., and I try to stay involved in their lives and those of my closest friends.

16. Are you involved in any active investments from which you derive additional income that might impair your appearance of impartiality?

No.

17. Would you hear a case where you or a member of your family held a *de minimis* financial interest in a party involved?

No, because of the appearance of impropriety.

18. Do you belong to any organizations that discriminate based on race, religion, or gender?

- No.
19. Have you met the mandatory minimum hours requirement for continuing legal education courses?
Yes. [I continue to attend CLE's, although because I have been a Bar member for 30 years and am 60 years old, I am no longer required to obtain continuing education hours.]
20. What do you feel is the appropriate demeanor for a judge?
Canon 3 makes it clear that a Judge is supposed to be unbiased, courteous, patient, and dignified with everyone, not just litigants and lawyers. Judges must act accordingly with respect to staff and all members of the public.
21. Do the rules that you expressed in your previous answer apply only while you are on the bench or in chambers, or do these rules apply seven days a week, twenty-four hours a day?
The rules always apply in all situations.
22. Do you feel that it is ever appropriate to be angry with a member of the public, appearing before you?
No.
Is anger ever appropriate in dealing with attorneys or a pro se litigant?
No. Firmness may be appropriate, but never anger.
23. How much money have you spent on your campaign?
None.
If the amount is over \$100, has that been reported to the House and Senate Ethics Committees?
N/A
24. While campaigning for this office, have you used judicial letterhead or the services of your staff for your campaign?
No.
25. Have you sought or received the pledge of any legislator prior to this date?
No.
26. Have you sought or been offered a conditional pledge of support by any legislator pending the outcome of your screening?
No.
27. Have you asked any third parties to contact members of the General Assembly on your behalf before the final and formal screening report has been released?
No.
Are you aware of any friends or colleagues contacting members of the General Assembly on your behalf?
No.
28. Have you contacted any members of the Judicial Merit Selection Commission?
No.
29. Are you familiar with the 48-hour rule, which prohibits a candidate from seeking pledges for 48 hours after the draft report has been submitted?
Yes.

I HEREBY CERTIFY THAT THE ANSWERS TO THE ABOVE QUESTIONS ARE TRUE AND COMPLETE TO THE BEST OF MY KNOWLEDGE.

s/ Carolyn Cason Matthews

Sworn to before me this 1st day of August, 2014.

Christopher Whitehead

(Print name)

Notary Public for S.C.

My Commission Expires: July 13, 2020