

JUDICIAL MERIT SELECTION COMMISSION
Sworn Statement to be included in Transcript of Public Hearings

Family Court
(New Candidate)

Full Name: Paul D. Schwartz

Business Address: 708 Saint Andrews Boulevard, P.O. Box 31943,
Charleston, SC 29417-1943

Business Telephone: (843) 559-1817

1. Why do you want to serve as a Family Court Judge?

I want to be a Family Court Judge because I believe I am the most qualified of all who have filed to sit as a Family Court Judge. I have been practicing law for 32 years now, and have handled every type of Family Court there is. In serving as a Guardian Ad Litem for over 20 years now, I have gained insight into the pain a divorce and custody fight place on children and the litigants. I would like to weigh in and ease that pain and make a difference in the lives of those that I serve.

2. Do you plan to serve your full term if elected?

I do.

3. Do you have any plans to return to private practice one day?

If I were to leave the bench, I am certain that I would do so. I enjoy the practice of law and the comradery of attorneys and helping my friends, neighbors and clients in general.

4. Have you met the statutory requirements for this position regarding age, residence, and years of practice?

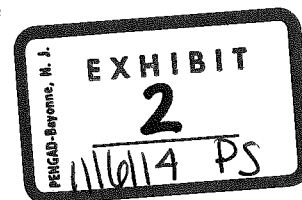
Yes I have.

5. What is your philosophy regarding *ex parte* communications? Are there circumstances under which you could envision *ex parte* communications being tolerated?

I am against ex-parte communications. I cannot think of an instance where it should be tolerated where parties have appeared in an action. Obviously in a dangerous abuse situation and/or situation of imminent danger to a child or defenseless adult, an ex-parte Order may be sought, pursuant to motion and the filing of an action, but those require a very short emergency order for preservation and protection, and then a short notice hearing with notice, to determine if the need is/was genuine and whether it should continue. Other than that scenario, it should not occur.

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

When in doubt, after full disclosure on the record, without full consent of the parties and counsel, recusal is the rule. We must always protect not only the impartiality of the bench but the appearance of the



impartiality of the bench. Recusal is the rule where law partners, former associates and close friends who are lawyer legislators appear before you. If one can be impartial with another non close friend lawyer legislator, and the attorneys and the parties do not object and consent after a full disclosure on the record, a judge may proceed. I would not otherwise proceed with a law partner or former associate. If opposing counsel and the parties waived any conflict after a full disclosure of the relationship and the potential conflict on the record and the judge could and so stated on the record he could be impartial, then the judge could hear the matter.

7. 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?

I would feel compelled to grant the motion. Again it is not only the impartiality but the appearance of impartiality to the litigants.

8. How would you handle the appearance of impropriety because of the financial or social involvement of your spouse or a close relative?

That would require my recusal. Since it would appear that I was biased and that cannot be the case with the judiciary. Participation by a judge in financial and business dealings is subject to the general prohibitions in Section 4A against activities that tend to reflect adversely on impartiality, demean the judicial office, or interfere with the proper performance of judicial duties. Such participation is also subject to the general prohibition in Canon 2 against activities involving impropriety or the appearance of impropriety and the prohibition in Section 2B against the misuse of the prestige of judicial office. This provision would lead to recusal.

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

I can only accept the same when it is not intended and does not appear intended to influence a case or matter before me. Section 4D(5)(h) prohibits judges from accepting gifts, favors, bequests or loans from lawyers or their firms if they have come or are likely to come before the judge; it also prohibits gifts, favors, bequests or loans from clients of lawyers or their firms when the clients' interests have come or are likely to come before the judge. The rule would be my standard.

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

A lawyer who knows that another lawyer has committed a violation of the Rules of Professional Conduct that raises a substantial question as to that lawyer's honesty, trustworthiness or fitness as a lawyer in other respects, shall inform the appropriate professional authority.

A lawyer who knows that a judge has committed a violation of applicable rules of judicial conduct that raises a substantial question as to the judge's honesty, trustworthiness, or fitness for office in other respects shall inform the appropriate authority.

As a judge and a lawyer I have at the very least the duty of an attorney to report the conduct. I would report the same.

11. Are you affiliated with any political parties, boards or commissions that, if you were elected, would need to be evaluated?

I am on the Board of the James Island Charter High School, but that appointment ends in September 2014. So the answer is no.

12. Do you have any business activities that you would envision remaining involved with if elected to the bench?

I do not.

13. Since family court judges do not have law clerks, how would you handle the drafting of orders?

I would go by the current practice. Take copious notes and have counsel for the prevailing side prepare a proposed order, provide it to opposing counsel and after resolving any disputed provisions and after making sure it complies with my ruling, sign the same.

14. If elected, what method would you use to ensure that you and your staff meet deadlines?

I would have all matters carefully calendared on computer and paper calendar and we would meet regularly to be assured we meet our deadlines.

15. If elected, what specific actions or steps would you take to ensure that the guidelines of the Guardian Ad Litem statutes are followed during the pendency of a case?

I would utilize the very thorough Guardian Ad Litem Order from Charleston County and make sure the provisions of the statute are complied with. I would appoint and provide for review hearings as to the progress of the investigations and if a 30 or 60 day reporting requirement, I would make sure that follow-up hearing were scheduled for receipt of that report. I would require that the statute be strictly followed.

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

I do not believe that is in the best interest of the public for a judge to attempt to promote public policy. That would seem best left for the legislature. The rules provide that public confidence in the judiciary is eroded by irresponsible or improper conduct by judges. A judge must avoid all impropriety and appearance of impropriety. A judge must therefore accept restrictions on the judge's conduct that might be viewed as burdensome by

the ordinary citizen and should do so freely and willingly. Judicial activism would possibly violate this provision.

The prohibition against behaving with impropriety or the appearance of impropriety applies to both the professional and personal conduct of a judge. The test for appearance of impropriety is whether the conduct would create in reasonable minds a perception that the judge's ability to carry out judicial responsibilities with integrity, impartiality and competence is impaired

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

I would again promote a program once implemented in Charleston County where volunteer probation officers were recruited and trained and then assigned first offender juveniles in an effort to give them one on one contact and maybe an adult to form a relationship with. I liked the program and participated in the same and would like to see it again. As a 20 year Guardian Ad Litem, I would also take an active role in assisting that organization with educational information to even better train the very excellent Guardian Ad Litem's that practice in the Tri County area.

18. Do you feel that the pressure of serving as a judge would strain personal relationships (i.e. spouse, children, friends, or relatives)? How would you plan to address this?

I do not. I am an empty nester and my Wife fully supports this process. I look very forward to the challenge and it will be simple to simply not discuss matters of the bench with friends, family and relatives.

19. Would you give any special considerations to a *pro se* litigant in family court?

I would give the same courtesy and respect that I give any lawyer in the court. I would make sure justice was done, but would not act as the advocate for the *pro se* party. I would certainly caution them about appearing without the benefit of counsel and do so on the record.

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

No.

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

No I would not. The rule provides that participation by a judge in financial and business dealings is subject to the general prohibitions in Section 4A against activities that tend to reflect adversely on

impartiality, demean the judicial office, or interfere with the proper performance of judicial duties

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

No I do not.

23. Have you met the mandatory minimum hours requirement for continuing legal education courses?

Yes I have.

24. What percentage of your legal experience (including experience as a special appointed judge or referee) concerns the following areas? If you do not have experience in one of these areas, can you suggest how you would compensate for that particular area of practice?

- a. Divorce and equitable distribution: 30%
- b. Child custody: 30%
- c. Adoption: 15%
- d. Abuse and neglect: 15%
- e. Juvenile cases: 10%

25. What do you feel is the appropriate demeanor for a judge?

I believe that a judge must remain calm and assertive and in control, without raising his voice. There is no need and no tolerance for yelling or insults, as that merely upsets all in the courtroom that much more. The judge is the voice of reason and he or she is supposed to be the knowledgeable decision maker. There is no excuse for a judge to be rude, yelling, appear angry, insulting or demeaning in anyway. The judge should always show respect and kindness for the parties, counsel, the witnesses and persons appearing before him.

26. Would the rules that you expressed in your previous answer apply only while you are on the bench or in chambers, or would these rules apply seven days a week, twenty-four hours a day?

These rules would apply seven days a week, 24 hours a day. I would strive to be that way.

27. Do you feel that it is ever appropriate to be angry with a member of the public who would appear before you, especially with a criminal defendant?

Possibly, but that would be no excuse to yell, be rude, or disrespectful. Anger can be expressed as just that, these facts make the Court angry. Is anger ever appropriate in dealing with attorneys or a pro se litigant? Again possibly, but not with disrespect. If a person appears before the Court who has abused a child or wilfully failed to support his children, for instance, the Court should express anger over that behavior and that it must be dealt with and corrected, but not with disrespect or yelling or rudeness.

28. How much money have you spent on your campaign? If the amount is over \$100, has that been reported to the House and Senate Ethics Committees?
None.
29. If you are a sitting judge, have you used judicial letterhead or the services of your staff while campaigning for this office?
No and n/a.
30. Have you sought or received the pledge of any legislator prior to this date?
No I have not.
31. Have you sought or been offered a conditional pledge of support by any legislator pending the outcome of your screening?
No, I have not.
32. 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 I have not. Are you aware of any friends or colleagues contacting members of the General Assembly on your behalf?
No.
33. Have you contacted any members of the Judicial Merit Selection Commission?
No.
34. 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 am.

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

s/ Paul D. Schwartz

Sworn to before me this 31st day of July, 2014.

Nancy B. Schwartz

(print name)

Notary Public for South Carolina

My commission expires: February 8, 2017