

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

Family Court
(New Candidate)

Full Name: Hon. Cely Anne Baker Brigman
Business Address: 291 W. Evans Street
Florence, SC 29503
Business Telephone: (843) 667-0400

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

In the years I have been practicing in the Family Court, I have learned that it can be a frightening and overwhelming place for litigants. Many litigants feel there are unnecessary delays which can be harmful both emotionally and physically.

I have also witnessed different "styles" of judges and the impact that can have on litigants and the attorneys. I believe that patient and polite judges can help litigants and attorneys through the process and can also assist parties in reaching resolutions outside the courtroom.

As a Magistrate, I have seen first hand how important temperament and demeanor can be and believe I have the requisite temperament and skills necessary to be an effective Family Court Judge. Serving as a Family Court Judge would give me the opportunity to use my education, experience and training on a higher level and benefit others in the process.

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

I plan to serve my full term if elected.

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

I do not have any plans to return to private practice as long as I hold a judicial position.

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

I meet the statutory requirements for this position.

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

As a Magistrate, I have abided by the Judicial Canons and refrained from engaging in *ex parte* communications in cases before me except as allowed under Judicial Canon 3(B)(7) or otherwise authorized by law. If elected to serve on the Family Court bench, I would continue to abide by the Judicial Canons and refrain from engaging in *ex parte* communications except in those situations



outlined in Canon 3(B)(7) which include administrative matters or emergencies that do not deal with substantive issues, situations where there will be no tactical advantage as a result of such communication and all parties are advised of the communication and allowed opportunity to respond. There are also statutory provisions which allow for *ex parte* communications, such as the issuance of temporary orders related to child support and custody.

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

As a Magistrate, I have abided by the Judicial Canon 3(E) which addresses recusal and avoiding any appearance of impartiality or bias. My practice has been to disclose any past relationships with counsel or litigants on the record. If any litigant or counsel objects to my presiding, I recuse myself.

If I had direct knowledge or involvement in a case involving a former associate or law partner, I would recuse myself. A judge has the responsibility to avoid the appearance of impropriety and I have and will continue to uphold that responsibility.

I have had lawyer-legislators appear before me in Magistrate's court and have been able to render impartial decisions based on the case before me without bias or prejudice. If elected to serve on the Family Court bench, I would continue to abide by the Judicial Canons.

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?

If after disclosing an issue I believed had the appearance of potential bias,

I would grant a motion for recusal if either party or attorney had a continuing objection. I strongly believe that it is important for judges to be fair and impartial and for the litigants and attorneys to have confidence in the judge hearing their case. If a litigant believes that the judge is biased, I believe it is best to recuse yourself to avoid any appearance of impropriety.

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

Pursuant to Canon 3(E)(d), if a judge's impartiality might be reasonably be questioned, a judge shall recuse himself if the judge, the judge's spouse or a person within the third degree of relationship to either of them, or the spouse of such a person is a party to the proceeding, is acting as a lawyer in the proceeding, is known by the judge to have an interest that could be affected by the proceeding, or

the judge has knowledge that person might be a material witness in the proceeding.

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

I would not accept any gift or offers of social hospitality that might be viewed as an attempt to influence my judicial decisions. I would also discourage members of my household from accepting such gifts or invitations. Pursuant to Canon 4, professional gifts and invitations, ordinary social hospitality and gifts from family and friends are excepted from the rule. However, I would reject any gift or invitation received which gave the appearance of impropriety.

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

Pursuant to Canon 3(D), if I had knowledge that a judge committed a violation of The Code of Judicial Canons that raised a question to his fitness for office I would have direct communication with the judge and report the violation to the appropriate authority.

If I had knowledge that a lawyer had violated the Rules of Professional Conduct that raised a question as to the lawyer's honesty, trustworthiness or fitness as a lawyer, I would have direct communication with the lawyer and report the violation to the appropriate authority.

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

I am not affiliated with any political parties, boards or commissions that would need to be evaluated if elected to this position.

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

I do not have any business activities that I would remain involved with if elected to the bench.

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

I would request that one of the attorneys prepare an order pursuant to my ruling and that he provide a copy to opposing counsel prior to submission to me for signature. I would give the opposing attorney the opportunity to respond to the proposed order before signing. If necessary, I would prepare the order personally. If there were specific legal issues that needed to be addressed, I would ask the attorneys to brief those issues and I would research the issues personally.

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

A judge has a duty to diligently discharge administrative duties and to ensure that his staff does the same. Clear communication with staff, court personnel, attorneys and litigants along with an effective calendaring system would be used to assure that deadlines were met promptly.

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 ensure that Guardians are appointed in appropriate cases in a timely manner. I would expect that the Guardians are qualified and properly trained. The Guardians should be provided with all pleading, notices, discovery and orders related to their ward.

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

Judges are expected to apply the laws as written. If the statutory or constitutional provisions are clear, then the judge's discretion is limited by those provisions which he should follow. In issues where there is no specific statute or law governing the matter, the judge's discretionary decisions should be limited to furthering the general principals of law governing that specific issues and the Court should not seek to formulate new rules or procedures not contemplated by the law as written. However, there are times when judges have to use discretion based on the judge's training and experience.

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 continue to speak at Continuing Legal Education Seminars. I would also welcome any opportunities to speak at other appropriate functions where I could have the chance to educate others about the legal system and the roles of lawyers and judges.

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 believe that the pressure of serving as a judge would strain my personal relationships. I have two daughters. The oldest just graduated from college and the youngest is beginning her senior year in college. My husband is employed full time with Sonoco Products in Hartsville. My entire family has been very supportive of my endeavor in seeking this position.

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

I would expect a *pro se* litigant in family court to abide by the same rules and code of conduct that is expected of attorney. I would

advise them of my expectations prior to going forward in a proceeding and would make sure they had a clear understanding of what was about to happen and what my expectations were. I would question them about their ability and/or desire to obtain counsel or to consult with counsel prior to the proceeding going forward. I would make sure they were making an intelligent and informed decision about proceeding without an attorney.

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

I am not involved in any active investments from which I derive additional income that might impair my appearance of impartiality.

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

Pursuant to Judicial Canon 3(E)(1), a judge should not hear a case in which he or a family member has more than a *de minimis* financial interest in the subject matter. If I or a family member had an interest that would not raise reasonable question as to my impartiality, I would hear the case. However, I would advise the litigants and the attorneys on the record of such interest.

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

I do not belong to any organizations that discriminate based on race, religion, or gender.

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

I have met the mandatory minimum hours requirement for continuing legal education courses.

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: 20%

d. Abuse and neglect: 15%

e. Juvenile cases: 5%

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

I believe that a judge should be patient, polite and courteous to both the litigants and the lawyers who appear before him. Family Court judges have the ability to impact the most critical parts of a family's life and litigants are often overwhelmed and frightened when appearing in Family Court. It is important for the judge to be patient and polite and to allow the litigants to "have their day in court". I do

not believe it serves the litigants, the attorneys or the judiciary for a judge to be impatient or abrupt with those appearing in front of 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?

A judge should at all times conduct themselves with propriety and integrity. The rules of judicial conduct extend beyond the courtroom and chambers. A judge should be mindful that his actions and behavior outside the courtroom can have an impact on public confidence in the judiciary. A judge should behave at all times in a manner that promotes integrity and impartiality and should avoid any actions or behavior that are inappropriate.

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? Is anger ever appropriate in dealing with attorneys or a pro se litigant?

I believe there are certainly situations in which judges become angry with the litigants and even the attorneys who appear before them. The issue is how the judge deals with or addresses that anger. Explosive outbursts from the judge are not appropriate and do not promote confidence in the judicial system.

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?

I have not spent anything to date. Any amounts I spend over \$100.00 shall be reported to the House and Senate Ethics Committees.

29. If you are a sitting judge, have you used judicial letterhead or the services of your staff while campaigning for this office?

During the last eight years that I have served as a Magistrate, I have not used judicial letterhead or the services of staff inappropriately. I have not used judicial letterhead or staff while campaigning for this office.

30. Have you sought or received the pledge of any legislator prior to this date?

I have not sought or received the pledge of any legislator prior to this date.

31. Have you sought or been offered a conditional pledge of support by any legislator pending the outcome of your screening?

I have not sought or been offered a conditional pledge of support by any legislator pending the outcome of screening.

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? Are you aware of any friends or colleagues contacting members of the General Assembly on your behalf?

I have not asked third parties to contact members of the General Assembly on my behalf and I am not aware of any friends or colleagues contacting members of the General Assembly on my behalf.

33. Have you contacted any members of the Judicial Merit Selection Commission?

I have not contacted any members of the Judicial Merit Selection Commission.

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?

I am familiar with the 48-hour rule, which prohibits a candidate from seeking pledges for 48 hours after the draft report has been submitted.

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

Cely Anne Baker Brigman

Sworn to before me this 4 day of August, 2012.

Notary Public for South Carolina

My commission expires: 01/15/15